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THE PROGRESSIVES AND THE WORLD COURT DISPUTE  
IN THE SENATE, 1920-1926

by



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The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies for acceptance, a thesis entitled "The Progressives and the World Court Dispute in the Senate, 1920-1926" submitted by Phyllis R. Lombard in partial fulfilment of the requirements for the degree of Master of Arts.





## ABSTRACT

Progressives in the Senate during the period 1920-1926 played a significant role in the failure of the United States to enter the World Court. The purpose of this thesis is to show how approximately twenty senators, though divided themselves, exercised this influence, as well as to examine the origin and the nature of their views on international cooperation and on the World Court in particular.

Although the early progressive movement was mainly middle class and urban in orientation, it was also partly a continuation and enlargement of the more agrarian-centered Populist movement. These two strains became sharpened with the controversy over the domestic and foreign policies of Theodore Roosevelt and Woodrow Wilson. In foreign affairs "traditionalists," led by Wilson, favored idealistic, legalistic, moral approaches to international cooperation, while "moderns," inspired by T. R., brought more realistic considerations of power and order to bear on the handling of foreign relations.

The "moderns" deserted the movement largely as a result of their disillusionment that grew out of the war and the peace making, leaving the "traditionalists" who split into two camps: the "isolationist traditionalists" who wanted no political involvement in Europe whatsoever and the "international traditionalists" who were willing to engage in international cooperation but only in a legalist, noncommittal way.

The score of progressives who held the balance of power in the Senate from 1920 to 1926 were divided into these two groups on foreign affairs. With their focus for reform almost entirely on agriculture





and with a rather narrow, retrograde political philosophy, these mainly midwestern, Populist-type progressives were unable to view the United States as a world power with global responsibilities.

On the World Court issue, the "isolationist traditionalists" opposed United States entry, denounced the Court as a plot by the "moneyed interests" and cooperated with the regular, nationalistic Republicans in delaying action on the proposal. The "international traditionalists" favored adherence under conditions designed to protect United States sovereignty and were instrumental in bringing the proposal to a vote, but they cooperated with their "isolationist traditionalist" opponents in encumbering the plan with reservations.

The result was Senate approval of a resolution providing for United States participation in the World Court. However, the fifth reservation, which seemed to demand the right of the United States to veto any advisory opinion, coupled with the Senate's adamancy in its "take it or leave it" offer to the other adhering nations, made entry impossible. The efforts of the two opposing groups had contributed to the demise of the proposal and the consequent damage to the international position of the United States.





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## INTRODUCTION

The fate of early twentieth century progressivism is a subject of dispute among historians. Some have written that the reform movement ended in 1917; some have declared that it was over by 1920; still others have insisted that progressivism was very much alive in the twenties. We know that progressives did not suddenly vanish from the American political scene in 1917 or in 1920; they made important gains in Congress in the 1922 bi-elections, a Progressive Party presented Presidential and Vice-Presidential candidates in the election of 1924 and progressives held the balance of power in both houses of Congress throughout most of the twenties.

Although progressivism did not die out completely during this decade, it was different from what it had been before 1917. This study is an attempt to reveal the character of the surviving progressives and, more particularly, to show their influence upon efforts of the United States to enter the World Court during the first six years of the decade. The focus of this thesis will be on the progressives in the Senate from 1920-1926 in order to show how only a score of moderate to strong insurgents were able to play a significant role in the struggle over entry into the Court.

To do this one must first examine the progressive movement itself in order to determine its roots and development. For it is a second aim of this study to show why these progressives in the twenties took the position that they did on foreign affairs and on the World Court in particular.



Generally speaking, progressives during this period were either isolationists or moderate internationalists on the question of the role America should play in world affairs. That is, either they would agree to absolutely no political involvement with other nations or they proposed only a non-committal type of legal cooperation carefully circumscribed with reservations designed to protect the sovereignty of the United States in every conceivable way. Both groups contributed to the failure of the United States to join the Court.

The sources that have been the most useful for this thesis are the Congressional Record, the New York Times and the progressive periodical the Nation. The unavailability of the other important progressive magazine of the period, the New Republic, is regretted. The Coolidge Papers contain little that is helpful, but they do confirm the impression that Coolidge was a retiring man willing to leave the formulation of foreign policy to others.





## CHAPTER I

### THE LEGACY OF THE PROGRESSIVES IN THE 1920'S

An inquiry into the impact of Senate progressives on the enduring World Court dispute of the 1920's should begin with an examination of the composition and attitudes of the elements within the progressive movement as it developed around the turn of the century. The progressive movement was in part a continuation but also an enlargement of the more agrarian-centered Populist movement. Like earlier manifestations of reform in the United States dating back to Thomas Jefferson and Andrew Jackson, the Populist-progressive movement was never revolutionary in nature and, also like earlier reform efforts, had as its general objective the broadening of economic opportunity for the individual by breaking down special privilege in the economic and political sectors of society.

Populism and progressivism occurred in the United States during a period of rapid industrialization and urbanization when large numbers of immigrants, whose religion and politics differed from those of the majority of the American people, were making the idea of the "melting pot" untenable and when many people were beginning to question the new Social Darwinism that held that man could not change society.

The "agrarian myth" has played an important role in determining the way that many reformers have reacted to this industrialization and urbanization. Richard Hofstadter has referred to this myth as representing "a kind of homage that Americans have paid to the fancied



innocence of their origins."<sup>1</sup> Glorified as the ideal kind of existence by such American literary figures as Ralph Waldo Emerson and Henry David Thoreau and by such classical writers as Cicero, Virgil and Horace, the farm life, according to the myth, was the best life. Living close to the soil, the farmer was not corrupted by the evil influences of the city; he worked closely with his family to create a healthy, simple kind of existence; he was, often because of a lack of transportation and other facilities, forced to be individualistic and self-reliant and he was honest. Therefore, the farmer was the best kind of citizen.<sup>2</sup>

John Locke's natural-rights philosophy as applied to the holding of land found easy acceptance in America. The belief that because every man has a right to the land or to what Jefferson called "the fundamental right to labour the earth," his labor upon the land confers title to it became widespread in the United States by the early nineteenth century.<sup>3</sup> Jeffersonian reformers used the ideas of the "agrarian myth" to battle the Federalists. By 1840 even the more conservative Whigs were appealing to the common people in the Presidential campaign by presenting William Henry Harrison as the "log cabin, hard-cider candidate" of the masses.

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<sup>1</sup>Richard Hofstadter, The Age of Reform (New York: Alfred A. Knopf, 1955), p. 24.

<sup>2</sup>Ibid., pp. 23-27; George E. Mowry, The Era of Theodore Roosevelt, 1900-1912 (New York: Harper & Row, 1958), pp. 91-92.

<sup>3</sup>Hofstadter, The Age of Reform, p. 27.





But in the nineteenth century and even into the twentieth, while the leaders of the country continued to sing the praises of the rural life, they themselves avoided farming as a vocation; for the economic realities of the situation were making it plain that the "good life" was to be found less on the farm than in the cities. Leaders like William Jennings Bryan, Robert M. LaFollette, Theodore Roosevelt, Calvin Coolidge and Franklin Roosevelt were among those who lauded the outdoor and the rural life and professed to feel a certain empathy with the farmer, but the emptiness of the "agrarian myth" became more and more apparent as the young people in increasing numbers fled the farms for the cities.

Those who remained on the farms found that their independent, self-sufficient life was beginning to change. Starting around 1815, with American industries developing and transportation facilities improving, the farmer began to concentrate upon cash crops and to buy what he needed in the market-place instead of making and growing what he needed at home. By the time of the Civil War, commercial agriculture had pretty well replaced independent farming throughout the West.<sup>4</sup> The farmer was now unsatisfied with the old simple picture of himself. He wanted to share in the gains of the market-place. Hofstadter puts it this way:

If the yeoman family was to maintain itself in the simple terms eulogized in the myth, it had to produce consistently a type of character that was satisfied

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<sup>4</sup>Ibid., p. 39.



with a traditional way of life. But the Yankee farmer, continually exposed to the cult of success that was everywhere around him, became inspired by a kind of personal dynamism which called upon the individual to surpass traditions. . . . Agrarian sentiment sanctified labor in the soil and the simple life, but the prevailing Calvinist atmosphere of rural life implied that virtue was rewarded, after all, with success and material goods.<sup>5</sup>

Between 1861 and 1893 a revolution in communication created a new world-wide economy. This economy, coupled with an increasing world population and consumption that could not keep pace with the ever-growing food supply made possible by science and invention, caused a world agricultural depression. Farmers began to band together to try to solve some of the problems created by this new situation. The Granger movement of the 1870's, centered in the wheat growing states of Illinois, Wisconsin, Iowa and Minnesota, was an effort by farmers to bring down the high railroad transportation rates, high interest rates and high cost of farm machinery. Seeing the growing disparity between their standard of living and that of the city dwellers, farmers responded to this process of urbanization and industrialization by blaming their financial troubles on those city people with whom they did their business.

Turning to local and state governments for help, the Grangers succeeded for a time in holding the railroads, the money lenders and the merchants at bay by effecting passage of laws that set railroad rates and fixed rules of fair business practice at the mill and the warehouse.

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<sup>5</sup>Ibid., p. 40.





Supreme Court decisions in 1877 were favorable to the Granger movement, but later decisions reversed the trend of allowing state legislatures to regulate railroads operating within their state borders, and responsibility passed to the Federal government. This movement was just one of the sporadic outbreaks of farmer unrest; it "hinted at problems that one day would assume giant proportions, but it neither formulated them clearly nor held its followers tightly to the cause."<sup>6</sup>

Another manifestation of agrarian unrest, the Greenbackers appealed to both farm and labor elements in the late seventies and early eighties by promising to raise farm prices through inflated currency. But as the economic situation improved in the eighties, the Greenbackers disappeared from American politics.

Farmers were not interested in only political efforts to better their lives. Like the Granger movement, the Farmers' Alliances formed in the eighties and nineties began as non-partisan social and educational groups. But "unlike the Grangers they moved rapidly and decisively toward political action. . . ."<sup>7</sup> Farmers were again seeking a solution to their economic problems as they had prior to the five-year period of prosperity from 1879-1884. Overproduction that was largely the result of technological advances and increased regional specialization, coupled with the growing competition of foreign wheat, brought about

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<sup>6</sup>Robert H. Wiebe, The Search for Order, 1877-1920 (New York: Hill and Wang, 1967), p. 9.

<sup>7</sup>Hofstadter, The Age of Reform, p. 96.



a steady lowering of agricultural commodity prices. Aiding the movement were urban workers who were becoming increasingly vocal in their demands for economic relief. The idea of the single tax presented by Henry George in his book Progress and Poverty (published in 1879) attracted many urban workers. This simple plan for a 100 per cent tax on the increase in the value of land that occurred as communities grew up around it would break up concentrated wealth, spread it around and thus reopen opportunity.<sup>8</sup>

United by the same fear of great wealth and the same desire to restore individual opportunity, leaders of rural and urban labor organized the People's Party in 1890 with the objective of fighting monopoly. Monopoly was the main enemy of both groups--"Monopoly," as the Vice-Presidential candidate of the Populists in 1896, Tom Watson, put it, "of power, of place, of privilege, of wealth, of progress."<sup>9</sup> The Populists achieved considerable success in the Congressional bi-elections of 1890 and in the state elections in the South and the western portion of the Middle West.<sup>10</sup> Entering the Presidential election of 1892, the Populists won only 3 per cent of the national vote showing strength in agrarian southern states and states west of the Mississippi. Their

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<sup>8</sup>Eric F. Goldman, Rendezvous with Destiny (New York: Alfred A. Knopf, Inc., 1952), p. 34.

<sup>9</sup>Ibid., p. 42.

<sup>10</sup>Samuel P. Hays, The Response to Industrialism, 1885-1914 (Chicago: The University of Chicago Press, 1957), p. 31.





strength increased in 1894, but by 1896 the Democrats had won most of their support.

Following this decline of the Populists as a political party, the reform impulse in the United States enlarged and shifted its focus around the beginning of the twentieth century to include a more urban-oriented, middle-class group which provided much of its leadership. This shift can be explained in part by rising prices and an increase of gold in the economy. With farm products bringing better prices, farmers became less interested in Bryan's inflationary free-silver proposals which had been the overriding issue of the Populists and the Bryan Democrats in the 1896 Presidential campaign. While the farmers' condition improved, the middle class complained of rising prices. The consolidations of large businesses into trusts in the 1870's and their further consolidation around 1900 made middle-class reformers fear for both their economic and social positions.

Like the farmers, these middle-class Americans saw as their main problem the loss of economic and political opportunity. Thus, they too turned to local and state governments for aid. Government made more democratic would make possible more reform. "Reform meant primarily the ending of governmental interventions that benefited large-scale capital and a rapid increase in the interventions that favored men of little or no capital."<sup>11</sup>

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<sup>11</sup>Goldman, Rendezvous with Destiny, p. 59.



Taking over a great number of the Populist demands both specifically and in spirit, progressives achieved success in enacting reform laws on the local, state and national levels. The direct election of United States Senators; the initiative, referendum and recall; anti-trust legislation; the Federal income tax; the Australian ballot; the right of labor to organize; the eight-hour day and immigration restriction were all proposals that progressives took directly from Populist platforms and that were enacted into law. Other progressive demands such as direct primary elections, conservation of natural resources, workmen's compensation laws and minimum wage and maximum hours legislation were Populist in spirit and principle.<sup>12</sup>

Both Populists and progressives worked for such reforms in order to better protect themselves from what they saw as the evils of the city. To the farmer and the small businessman particularly, the city contained the impersonal forces or the "plutocrats" who were directing their destiny through power over money and markets. During the Populist period many farmers viewed the city as being completely alien to them, and they often spoke of the primary importance to the nation of agriculture. Bryan, in his famous Cross of Gold speech declared

The great cities rest upon our broad and fertile  
prairies. Burn down your cities and leave our farms,  
and your cities will spring up again as if by magic;

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<sup>12</sup>John D. Hicks, "The Persistence of Populism," Minnesota History, XII (March, 1931), pp. 3-18; Goldman, Rendezvous with Destiny, pp. 59-60.



but destroy our farms, and the grass will grow in the streets of every city in the country.<sup>13</sup>

A good many progressive reformers thought of the city as the place where great wealth was concentrated, and this great wealth was an enemy to society. Although a number of progressives were very rich themselves, they seemed to have had a guilty feeling about it. For example, Joseph Fels, the soap manufacturer who devoted much time and money to advancing the cause of the single tax, planned "to spend the damnable money to wipe out the system by which I made it."<sup>14</sup>

Many of the upper and middle class reformers also felt threatened both from above and below by the new industrialism of the city. The old patrician families like the Adamses and the Roosevelts had since the 1870's worried about their social and economic power being undermined by the "nouveau riche." Often holding a nobless oblige attitude toward the poorer classes and a scornful opinion of business, reformers from these families believed that members of their class could bring honesty to government. In addition, the city contained large laboring classes who, if allowed to unionize, might pose a threat to class stability. "Fear and confidence together for a time inspired this middle-class group . . . with a class consciousness that perhaps

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<sup>13</sup>Speeches of William Jennings Bryan (New York: Wagnalls Company, 1909), I, p. 248.

<sup>14</sup>Joseph Fels, "Mr. Fels' Own Story," Worlds Work, XXIII (1912), p. 566, quoted in Mowry, The Era of Theodore Roosevelt, p. 94.





exceeded any other group in the nation."<sup>15</sup>

To Populist and progressive alike, the city was also a place where one lost his morals and his ability for creativity. "Sometimes, I think, they's poison in the life in a big city . . . the flowers won't grow there . . . ," wrote Mr. Dooley, the astute observer of the period.<sup>16</sup>

There were also racial reasons for the anti-urban attitude of Populists and progressives. Beginning with the middle eighties, an increasing number of immigrants came to the United States from southern and eastern Europe. To the rural, native, Anglo-Saxon, Protestant American, these newcomers represented strangeness as did the city itself. Mainly Catholics and Jews, the immigrants were crowding into the cities of the East and Midwest. The sociologist Edward A. Ross, who was first a Populist and then "one of the leading ideologues of Progressivism . . . ," argued that these newcomers threatened to overcome the old stock and "bastardize American civilization."<sup>17</sup>

Populists and progressives feared the immigrant for various other reasons. They often blamed him for corrupt city government since he provided a power base for the machine bosses, and they considered him a threat to wage levels because he was used as a strikebreaker and to decent standards of living because he lived in crowded, slum-like conditions.

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<sup>15</sup>Mowry, The Era of Theodore Roosevelt, p. 103.

<sup>16</sup>Ibid., p. 91.

<sup>17</sup>Hofstadter, The Age of Reform, pp. 179-180. See also Goldman, Rendezvous with Destiny, p. 60.



In addition to being a reaction to industrialization, urbanization and the new immigration, progressivism was partly a reaction to the widely prevailing theories of Social Darwinism. The evolutionary or "survival of the fittest" philosophy in nature was applied to society by Herbert Spencer, the English philosopher, and confirmed and spread by the Americans John Fiske and William Graham Sumner. In the half century following the Civil War these theories held a prominent place in the thought of middle-class Americans. In his most famous book, The Man Versus the State, Fiske wrote that evolution made progress necessary and ultimate perfection inevitable. Thus individualistic and materialistic people in the "robber baron" period of American history could regard their actions as being in accord with evolution. Man himself could violate this law, but he could do nothing to change it or to help it along.

William Graham Sumner, American sociologist and devoted disciple of Herbert Spencer, held that the success of the evolutionary process "was strictly correlated with his [man's] passivity."<sup>18</sup> Thus, to Sumner, laissez faire was the highest law. Competition and freedom in the marketplace were essential. In time, if societies followed the "survival of the fittest" rule, progress would come--slowly but surely.

Leading the attack on this Spencerian philosophy was Lester Ward in his book Dynamic Sociology. He observed that laissez faire was not consistent with nature or man. Civilization itself proved that intelligent man has never stopped tampering with things. The pragmatic Ward

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<sup>18</sup>Henry Steele Commager, The American Mind (New Haven: Yale University Press, 1950), p. 201.





called for legislation to improve society. "What worked was what contributed most in the long run to the spiritual and intellectual as well as the material welfare of mankind."<sup>19</sup>

Economists like Richard T. Ely advanced the argument that man was the creator of change not the receiver. The new economics proposed to point the way toward ethics as a basis for social progress. "Labor should be assured of an 'equitable position,' wages should be 'fair,' prices 'just,' and working conditions 'decent.'"<sup>20</sup>

As a part of this general reaction to Social Darwinism, conservative, orthodox religion was attacked, as was the church itself as an institution. Workers turned away from the church as being a place "that was being run by and for the rich."<sup>21</sup>

With the growing belief that sin was sociological in origin, the sociologist E. A. Ross and Unitarian, Congregational and Episcopal ministers advanced the solution that sin could be reduced by taking action against it in society.

A direct influence on progressivism, these new intellectual tides showed that many people were developing a faith in man's ability to change the inequities of the existing economic and social order. These issues put before the public by Sumner, Ward, Fiske, Ross and others were "simplified into such rallying cries as free silver or sound money,

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<sup>19</sup>Ibid., p. 212.

<sup>20</sup>Mowry, The Era of Theodore Roosevelt, p. 22.

<sup>21</sup>Ibid., p. 25.



private enterprise or socialism, regimentation or planned economy, rugged individualism or social security. . . . They were the basic issues of the Populist Crusade [and] the Progressive movement. . . ."22

Thus in many ways the Populist and progressive movements were similar. Both aimed to restore individual opportunity by removing special minority and corrupt influences from government. Both agreed that this could be effected by making government more responsible to the public through more direct democracy and by increasing the functions of government to alleviate social and economic problems of the people.<sup>23</sup> Both held similar views with regard to the significance of the role of the farmer in American society, the evil influences of the city, the desirability of restricting immigration and man's ability to change his society. But there are some important differences. These differences do not negate but confirm the view that progressivism is a continuation and enlargement of the Populist movement.

Progressivism was more urban based than was Populism. It was probably more concerned with the problems of city dwellers--social welfare, municipal reform and the like. According to Professor Mowry, the progressive movement arose during a time of relative prosperity, and "its leaders were largely recruited from the professional and business classes of the city . . ." and as a group were rarely angry. The

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<sup>22</sup>Commager, The American Mind, p. 216.

<sup>23</sup>Benjamin Parke DeWitt, The Progressive Movement (New York: The Macmillan Company, 1915), pp. 4-5, cited in Kenneth Campbell MacKay, The Progressive Movement of 1924 (New York: Columbia University Press, 1947), p. 17.





Populist movement, on the other hand, occurred during a period of severe depression, and "the movement was led by angry men and women not too far removed from the Grange hall."<sup>24</sup>

Mowry's description of progressivism's leaders can be easily verified by listing some of the many middle-class progressive reformers of the period. There were social workers like Frances Perkins and Jane Addams, muckrakers like Ida Tarbell and Ray Stannard Baker, publicists like Herbert Croly and Walter Lippmann, political scientists like J. Allen Smith and Charles Beard and men in government like Hiram Johnson and Robert LaFollette. But there were also carry-overs from the Populist movement. Although many of the latter had returned to their regular party organization, they continued to work for Populist reforms. William Jennings Bryan is, of course, the main example. And, as John Hicks has pointed out, once the South had solved the problem of the threat of the Negro voter,<sup>25</sup> which had come to the surface again with the struggle between the white Populists and the "Bourbon dynasty," white Populists in that region continued within the Democratic Party to battle the conservative elements for control of the state governments. These former Populists often won office and brought about reforms.<sup>26</sup>

The difficulty of separating the two movements is further illustrated by the fact that even the Populist and other agrarian movements

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<sup>24</sup>Mowry, The Era of Theodore Roosevelt, pp. 87-88.

<sup>25</sup>The problem was solved by means of poll taxes, literacy tests and residence requirements.

<sup>26</sup>Hicks, "The Persistence of Populism," p. 10.





had their middle-class leaders. Samuel P. Hays has pointed out that the farmer did not directly control these agrarian reform movements and for this reason they failed.

Western and midwestern merchants spearheaded the Granger movement to regulate railroads; Chicago commodity dealers led the drive to regulate grain elevators. Western silver-mine owners, many of them multimillionaires, helped to divert the Populist movement into the free-silver issue and thereby into the Democratic party.<sup>27</sup>

Professor Mowry maintains that where progressivism did "touch the countryside," it grew most rapidly "not in the Populist wheat, cotton and mining regions, but rather in states with more diversified and wealthier economies."<sup>28</sup> But political reforms in states where Populism had been strong, in such states as South Dakota where the initiative and referendum were adopted in 1898 and Iowa where the reform governor Albert B. Cummins began his crusade in 1901 against monopolies, railroads and high tariffs, suggest that progressivism in many cases continued Populism. And Mowry himself has described the domino effect that the election of LaFollette as governor of Wisconsin had in the agricultural middle West: "A year afterward reform spread to Iowa, then to Minnesota and Missouri, and eventually down the entire tier of states immediately west, from North Dakota to Kansas."<sup>29</sup> In southern states

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<sup>27</sup>Hays, The Response to Industrialism, 1885-1914, p. 32.

<sup>28</sup>George E. Mowry, The California Progressives (Chicago: Quadrangle Books, Inc., 1963), p. 89.

<sup>29</sup>Mowry, The Era of Theodore Roosevelt, p. 71.



where Populism had been vigorous, reform efforts also continued. James K. Vardaman in Mississippi, Jeff Davis in Arkansas and Hoke Smith in Georgia all became governors of their states by overcoming "the dominant corporation-minded conservative Democratic machines. . . ." <sup>30</sup>

The strength of the reform movement in the Middle West, the West and the South as compared with that in the East, which Professor Mowry and Russell B. Nye have emphasized, also lends support to the theory that the demands of the agrarian region were important factors in the progressive movement. <sup>31</sup> Howard W. Allen has shown in a study of voting on reform issues in the United States from 1911-1916 that reform measures drew more support from the trans-Mississippi West than from the East. <sup>32</sup>

Thus, although it is possible to point out certain differences in the two movements, it is impossible to state where Populism ended and progressivism began because progressivism simply absorbed much of what remained of Populism around the turn of the century. Richard Hofstadter has described this merging in the following way:

After 1900 Populism and Progressivism merge, though a close student may find in the Progressive era two broad strains of thought, one influenced chiefly by the Populist inheritance, the other mainly a product of urban life. Certainly Progressivism was characterized

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<sup>30</sup> Ibid.

<sup>31</sup> Russell B. Nye, Midwestern Progressive Politics (East Lansing: Michigan State College Press, 1951), pp. 272-289; Mowry, The Era of Theodore Roosevelt, p. 78.

<sup>32</sup> Howard W. Allen, "Geography and Politics: Voting on Reform Issues in the U. S. Senate, 1911-1916," Journal of Southern History, XXVII (May, 1961), pp. 216-228.





by a fresh, more intimate and sympathetic concern with urban problems--labor and social welfare, municipal reform, the interest of the consumer. However, those achievements of the age that had a nationwide import and required Congressional action . . . were dependent upon the votes of the Senators from the agrarian regions and were shaped in such a way as would meet their demands.<sup>33</sup>

Differences in these two wings of the movement persisted and contributed to the dissension in progressivism and to its break-up between 1917 and 1920. Some of the most important of these differences were evident in the attitudes of these segments toward immigrants and the city, centralization and foreign relations.

Like the Populist strain, the urban-oriented progressives were often prejudiced against immigrants. But they could more often discipline their feelings and try to find a practical way to deal with the problem. Settlement houses were efforts of these progressives to Americanize the immigrant. The aim was to have the newcomer enrich American culture by keeping those parts of his heritage that did not conflict with his adjusting to life in the United States.<sup>34</sup>

Urban-oriented progressives saw the evils of the big-city bosses, but they were more willing than were the agrarian reformers to accept responsibility for them and to try to end them. A number of reform mayors turned the machines out of power around the turn of the century in such cities as Cleveland, Toledo, St. Louis and New York City.

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<sup>33</sup>Hofstadter, The Age of Reform, p. 133.

<sup>34</sup>Goldman, Rendezvous with Destiny, p. 60; John Higham, Strangers in the Land, Patterns of American Nativism, 1860-1925 (New Brunswick, N. J.: Rutgers University Press, 1955), pp. 119-121.



Although the power of labor unions represented a threat to the city-minded, middle-class progressives, they were more willing to recognize that the needs of the workers must be satisfied.<sup>35</sup>

Progressives in the urban strain did not have the tendency to look at problems in a simple good-versus-bad manner as did the rural-oriented reformers. Along with their recognition of the complexity of the problems in government, urban progressives succeeded in many large cities in streamlining government procedures through the use of shortened ballots, experts in government and the city-manager and commission type organizations.

The urban members of the movement showed a greater willingness to centralize. They turned more and more to Federal rather than state government for help and to executives rather than legislatures. This element relied more and more on the "good man" to efficiently and quickly bring about reform. The rural or Populist wing, on the other hand, was more likely to distrust bureaucrats, executives and experts and tended to rely "upon the ethical and intellectual qualities of the masses."<sup>36</sup> This is borne out by the fact that direct democracy measures gained the widest support in the West.

In Wisconsin Robert LaFollette overturned the state-run machine in 1900 and initiated the reform movement on the state level. Pushing through such reforms as a direct primary law, a civil service law, a

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<sup>35</sup>Hofstadter, The Age of Reform, p. 134.

<sup>36</sup>Goldman, Rendezvous with Destiny, p. 62; Mowry, The Era of Theodore Roosevelt, p. 71.





railroad rate commission, a conservation and water power franchise law and a state banking control act, LaFollette made his state a model of progressive, efficient government. Like the urban progressives, LaFollette favored making use of experts in government and in state regulation of big business, but early in his career he allied himself with the farmers in Wisconsin and became a spokesman for the Populist progressives of the country.<sup>37</sup>

LaFollette's image of the society and of the farmer's and small businessman's place in it, as well as of the nation's place in the world, matched that of the rural progressives even though Wisconsin was not Populist country. Like the agrarian progressives, LaFollette saw the big moneyed interests (particularly those in the East) threatening the very existence of the farmer and the small businessman.

The agrarian progressives wanted to return to the days of a more simple economy, to break up trusts and return business to free competition, while their urban counterparts were more willing to accept the economic conditions of the twentieth century and meet the challenge by involving government in the area of regulation. This dichotomy in progressive philosophy became clearly focused in the Presidential campaign of 1912 in the debate over Woodrow Wilson's "New Freedom" and Theodore Roosevelt's "New Nationalism." Although some observers like William Allen White could see no more difference in the candidates than between

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<sup>37</sup>Theodore Salutos and John D. Hicks, Agricultural Discontent in the Middle West 1900-1939 (Madison, Wisc.: University of Wisconsin Press, 1951), pp. 34-35.





Tweedledum and Tweedledee, Professor Link has interpreted this debate as representative of "a divergence in the progressive movement itself, a divergence far-reaching in its implications for the future development of governmental policies in the United States."<sup>38</sup>

## II

Theodore Roosevelt and Woodrow Wilson, the two "progressive" Presidents, illustrate this divergence in their domestic policies, particularly at the beginning of Wilson's Presidency, and even more decisively in their foreign policies.

While Roosevelt was by no means a radical reformer, he did much to further the spirit of progressivism. Many Americans (some rather reluctantly) were looking to government to help them survive in the face of the collective power of big business. In order for the state to take on such an adversary, it must be given more power and it must be neutral. His understanding of this need is one of the reasons that Roosevelt was popular with progressives. His ending of the Anthracite Coal strike by arbitration and his prosecution of the Northern Securities Company were steps that suggested to many that the leadership of the country was in the hands of a strong, capable and independent man. Such an image fitted in particularly well with the philosophy of the urban-oriented progressives who believed that a strong executive could more efficiently effect

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<sup>38</sup>Arthur S. Link, Woodrow Wilson and the Progressive Era, 1910-1917 (New York: Harper & Row, Publishers, 1954), p. 18.



reform. It was this group who continued to look to Roosevelt for leadership.

T. R. often seemed a progressive while he was actually taking a middle position. He did not prosecute many trusts and he did not think "trust-busting was wise." He often spoke against attempting "the impossible task of restoring the flint-lock conditions of business sixty years ago by trusting only to a succession of lawsuits under the anti-trust law. . . ." <sup>39</sup> But with his Bureau of Corporations he began to put some of the most powerful trusts under government control. The Elkins and Hepburn Acts were effective beginnings in regulation of railroads, and his steps to save the nation's forests and minerals from exploitation were significant progressive achievements. Gradually T. R. developed his idea of a "master regulatory state." <sup>40</sup> Noting that neither his trust busting nor that of his personally chosen successor, William H. Taft, was weakening monopoly and that Taft's blunders in a reform program were allying Taft with the Republican Old Guard, Roosevelt was driven more and more to the left.

This move to the left was influenced at least in part by Herbert Croly's The Promise of American Life, which Roosevelt read in 1910. Croly believed that the progressives who would return the "American political and economic system to its pristine purity and vigor" were

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<sup>39</sup>Theodore Roosevelt, Works (Memorial ed.; New York: C. Scribner's Sons, 1923-1926), XIX, p. 401.

<sup>40</sup>George E. Mowry, Theodore Roosevelt and the Progressive Movement (Madison: The University of Wisconsin Press, 1946), p. 146.





actually "unwitting reactionaries."<sup>41</sup> Advocating the pursuit of Jeffersonian ends by Hamiltonian means, Croly thought that in a complex, industrial society business would inevitably combine; thus, individuals must also combine first through government and then through private combinations such as labor unions.

It was on this subject of business consolidation that progressives split in the campaign of 1912. T. R. and his Bull Moose Progressives battled Woodrow Wilson, the Democratic nominee, for the vote of the center and the left while Taft appealed to the right. The debate centered about the trust question or, as the brilliant "people's" attorney Louis D. Brandeis put it, "regulated competition versus regulated monopoly."<sup>42</sup> Wilson's stand, called the "New Freedom," was in line with the more traditional, rural approach. "It was at best a modern restatement of Jeffersonian ideals long central to American liberalism."<sup>43</sup> Rejecting Hamiltonian ideas of a paternal state, Wilson said

When we undertake the strategy which is going to be necessary to overcome and destroy this far-reaching system of monopoly, we are rescuing the business of this country. We are not injuring it; and when we separate the interests from each other and dismember these communities of connection, we have in mind . . . that vision

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<sup>41</sup> Charles Forcey, The Crossroads of Liberalism, Croly, Weyl, Lippman, and the Progressive Era, 1900-1925 (New York: Oxford University Press, 1961), p. 27.

<sup>42</sup> Hofstadter, The Age of Reform, p. 249.

<sup>43</sup> Forcey, Crossroads of Liberalism, p. xxviii.



which sees that no society is renewed from the top but that every society is renewed from the bottom.<sup>44</sup>

There were fundamental similarities in the "New Nationalism" and the "New Freedom." Both "affirmed the necessity of active intervention in economic life by the state." And once in office, Wilson began the process of nationalizing the "New Freedom." Laws establishing the Federal Trade Commission and providing it with regulatory powers were passed in 1914; and by 1916 Wilson stood for a "strong government, for administrative regulation, for some intervention on behalf of the farmer and worker--in short for affirmative federal action aimed to produce equality of opportunity."<sup>45</sup>

Wilson's rural or "traditional" type of progressivism evolved into the urban or "modern" brand domestically, but the President was always hesitant to energetically back the "modernist" program. He tried, for example, to straddle the fence on the "modernist" progressive program of exempting labor unions from application of the anti-trust law. His "New Freedom, traditionalist" program called for "special privileges to none." That Wilson was not firmly committed to the urban-oriented or "modernist" progressivism was also shown in his unwillingness to throw his support to a program of social legislation. Because he feared too much government regulation in society, he did not back a Federal child labor law nor did he aid the cause of women's suffrage. Wilson's hesitance to become

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<sup>44</sup>Arthur M. Schlesinger, Jr., The Crisis of the Old Order (Boston: Houghton Mifflin Company, 1957), pp. 27-28.

<sup>45</sup>Ibid., pp. 33, 35.





a "modernist" progressive leader was also apparent in his 1914 campaign to win the friendship of the business community and his turning away from progressive reform during that year.<sup>46</sup>

When Wilson did turn toward the progressivism of the urban-oriented wing, it was often a case of his being forced into the situation. Many times between 1913 and 1916 Wilson showed that his "concessions to the progressive concept . . . were not the result of any genuine convictions on his part."<sup>47</sup> For example, the radical wing of the southern Democrats helped Bryan, Brandeis and William Gibbs MacAdoo (Secretary of the Treasury) modify the banking bill sponsored by Senator Glass (Democrat, of Virginia) so that public regulation was included, and they added to the bill a provision for short term credits for farmers.

Furthermore, when the election of 1916 drew near, Wilson saw that new tactics would be needed in order for the Democrats to win again. The Republicans were healing the schism that had split them in 1912. The Democrats could win in 1916 only if they could gain the votes of the former Progressives. The most logical and obvious way to do this was for Wilson to move away from the "traditionalist, New Freedom" progressive ideology and fully embrace the T. R. "modernist" type. Although it is true, as Professor Link has stated, that Wilson did not "come out and say that his desire to maintain the Democrats in power was responsible for the commitment he made to advanced progressivism in 1916," he did become

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<sup>46</sup>The President probably took these actions in 1914 because of a depression that had begun the year before.

<sup>47</sup>Link, Woodrow Wilson and the Progressive Era, p. 55.





"almost a new political creature."<sup>48</sup> From a Democratic Congress the President secured a rural credits act, the Keating-Owen Child Labor Act, the Adamson Act giving the eight-hour day to railroad workers, a workmen's compensation law and legislation establishing a tariff commission.

Wilson's strategy worked well. A great many of the Bull Moose Progressive leaders joined Wilson's camp. Labor and many farm organizations announced their support as did nearly all of the independent newspapers and magazines.<sup>49</sup>

But with much of the world engaged in a war, the peace issue was also a dominant theme in the campaign. The results of the 1916 election showed a new coalition of the South and West "in an emphatic mandate for progressivism and peace."<sup>50</sup> Whether Wilson's Administration could hold this coalition together would now depend largely on its ability to keep the country out of the conflict in Europe.

### III

Although foreign affairs had been of least importance to Wilson in his years of "self-conscious preparation for high public office . . . ,"<sup>51</sup> they were destined to play a large role in his Administrations.<sup>51</sup> The

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<sup>48</sup>Ibid., p. 224.

<sup>49</sup>Ibid., p. 240.

<sup>50</sup>Ibid., p. 250.

<sup>51</sup>John Morton Blum, Woodrow Wilson and the Politics of Morality (Boston: Little Brown and Company, 1956), pp. 84-85. See also Ray Stannard Baker, Woodrow Wilson: Life and Letters (8 Vols., Garden City, N. Y.: Doubleday, Page and Company, 1927-1939), IV, p. 55.



manner in which Wilson approached these problems had an important bearing upon his ultimately losing the support of the mainstream of the progressives--the group that he had so determinedly wooed prior to the 1916 election. For although he had become a progressive in the "modernist" tradition in his domestic policies, Wilson never made the transition from the rural, Populist philosophy to a more modern one in foreign relations.

These two strains of progressivism evident in domestic affairs can also be discerned in progressives' attitudes toward foreign affairs. Noting this corresponding split, John Braeman has labelled as "moderns" that group of progressives who were willing to face up to the "challenges and dangers of the twentieth century" both at home and in foreign relations. The other group--those who shrank from such responsibilities on both fronts--he has called "traditionalists." Those progressives who were "moderns" at home were more practical in their approach to the problems of the immigrant, the bosses and labor than were the "traditionalists"; they more often looked to the Federal government and to a strong paternalistic executive for reform, while the "traditionalists" looked to local and state governments and to legislatures to help them in their struggle against special interests. The "moderns" recognized the inevitability of bigness in business in a twentieth century economy, and their way of meeting this challenge was to advocate government regulation of large corporations. "Traditionalists," on the other hand, looked backward hoping to restore the old economy by breaking up the trusts and returning to the old competitive system.<sup>52</sup>

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<sup>52</sup>John Braeman, "Seven Progressives," Business History Review, XXV (Winter, 1961), p. 582.





Mr. Braeman has pointed out that in foreign relations it was the "moderns" who were willing for the United States to assume responsibilities in the world, while the "traditionalists" sought an isolationist position. He has cited George W. Perkins, Henry L. Stimson and Theodore Roosevelt as examples of "moderns." All three men welcomed the 1898 expansion of the United States. Stimson and Roosevelt realized that isolation was no longer possible in 1914 and believed that a German victory would threaten the security of the United States. Quoting from William H. Harbaugh's biography of Theodore Roosevelt, Braeman has stated that T. R. even came to hold a "'cautiously affirmative attitude' toward the League of Nations." His "traditionalist" examples were LaFollette, who opposed entry of the United States into the world war, and William E. Borah, who regretted voting for the war resolution and later called the League of Nations, the Four-Power Pact and the arms embargo repeal all "bankers' plots."<sup>53</sup>

The picture is more complicated than this, however. For example, Braeman did not make clear the difference in the motives of the two groups in their common support of the 1898 expansionism. Woodrow Wilson's brand of internationalism, i.e., support for the League of Nations, also beclouds the picture. Braeman did not deal with Wilson, but he hinted that Theodore Roosevelt's near acceptance of the League of Nations was consistent with the philosophy of the "moderns" for whom T. R. was the leading spokesman. The League of Nations concept, however,

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<sup>53</sup>Ibid., pp. 87-88, 92.



was not a part of the "modernist" philosophy; and Wilson, who was a firm supporter of that idea, stood much closer to the "traditionalists" on foreign policy than to the "moderns." It will be shown that, with the controversy over whether the United States should become involved in the conflict in Europe, the "traditionalists" further divided into two camps whom I shall designate as the "international traditionalists" and the "isolationist traditionalists."

Even after the "traditionalists" branched off into these two segments, their approach to problems and their philosophy remained much the same so that together they can still be contrasted with the "moderns." The element which clearly sets the two main groups apart in the area of foreign affairs is their concept of the role of power. The "moderns" believed in the importance of national power to insure security, while the "traditionalists," when they did concern themselves with world problems, favored legalistic and institutional approaches to keeping the peace.

There were other differences as well. The "traditionalists" relied upon an idealistic, moral, and often naive and simple method of dealing with foreign problems, while the "moderns" were more realistic, pragmatic and efficient in their approach. The idealistic approach to foreign affairs as practiced by Wilson and other "traditionalists" is concerned with the philosophical aspects of foreign policy. It considers above all the interests of all of mankind--of the world community--rather than of the particular interests of a nation. It holds that because of his perfectable nature, man can eventually eliminate strife in





the world by employing reason and righteousness. The "realists" as exemplified by the progressive "moderns," on the other hand, view conflict as endemic to individual as well as international affairs. They see their own country as part of a system in which all nations are competing for selfish interests. Given the nature of the international sphere, the "moderns" were primarily concerned with securing national objectives of defense, self-sufficiency and internal development.<sup>54</sup> The "moderns" could be expected to embrace this approach since the "realism" in literature, journalism and history--the passion for exposing the rawness of life--were important ingredients of urban progressivism.

Both the "moderns" and the "traditionalists" were nationalistic, but in different ways. Because the country's security came first with them, the "moderns" wanted a strong America which would also help to keep peace in the world. The "traditionalists" at first supported an aggressive expansionist policy for humanitarian reasons and later insisted either on withdrawal from Europe or on the type of involvement that would impinge little on the nation's sovereignty.

Both groups made use of the idea of the superiority of the Anglo-Saxon and his mission to spread democracy to the world, but it was more deeply embedded in the "traditionalists'" philosophy. The "moderns" added that it was the Anglo-Saxon's hard work and ability (not God) that had made him superior and that in the interest of efficiency, order and

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<sup>54</sup>Norman A. Graebner, Ideas and Diplomacy (New York: Oxford University Press, 1964), pp. vii-viii.





peace, the superior civilization had a duty to discipline the lower, barbarous ones.

Of all of these aspects of foreign policy, national power was the most important to the foremost spokesman of the "moderns." As a leading interpreter of T. R.'s foreign policy has phrased it,

. . . Roosevelt saw world events and policies in terms of power. He was intrigued with power, with the problems of power, and with rivalries for power.<sup>55</sup>

Even prior to 1898 when only a few Americans were thinking in terms of the "global framework"<sup>56</sup> of United States security, Theodore Roosevelt, with the help of Alfred T. Mahan, the famous exponent of sea power and Henry Cabot Lodge, member of the Senate Foreign Relations Committee, was urging that the United States increase its power in the world by expanding the navy and extending commerce. Roosevelt enthusiastically supported the war with Spain over Cuba as well as the imperialism that followed from it.

Closely related to power in Roosevelt's mind was order. For through power, order could be established both at home and abroad. Believing in the concept of a strong, paternal executive, as did most "moderns," T. R. broadened the role of the Presidency to effect order. This desire was behind Roosevelt's pronouncement of his corollary to

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<sup>55</sup>Howard K. Beale, Theodore Roosevelt and the Rise of America to World Power (Baltimore: The Johns Hopkins Press, 1956), p. 449.

<sup>56</sup>George F. Kennan, American Diplomacy, 1900-1950 (Chicago: The University of Chicago Press, 1951), p. 7.



the Monroe Doctrine. By keeping order in the Caribbean, European nations would be kept out of America and away from "areas of strategic significance" such as the Canal Zone.<sup>57</sup>

Herbert Croly, another "modern," also believed in the importance of national power to keep order, but he was strongly devoted to peace. However, when, as in the case of Cuba and Puerto Rico, people showed that they could not efficiently organize themselves nationally, foreign domination might be warranted. Croly opposed taking the Philippines but for reasons much different from those of the "traditional" progressives. He believed that the Philippines were an obligation which would prove not to be in the best interests of America.<sup>58</sup>

In their methods of trying to achieve order in the world, Roosevelt and Croly were realistic about the rivalries among nations; it is this characteristic that sets the "moderns" off in sharp contrast with their progressive cousins, the idealistic "traditionalists." Not interested in legalistic measures, Roosevelt strived to bring about equilibriums of power in Asia and Europe. "As early as 1905," he saw "that a balance should be preserved between Russia and Japan . . ."<sup>59</sup> in the Orient; and acting as mediator between these two countries to end

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<sup>57</sup>Blum, The Republican Roosevelt, pp. 106-107, 128-129.

<sup>58</sup>Herbert Croly, The Promise of American Life (New York: The Macmillan Company, 1911), p. 308.

<sup>59</sup>Kennan, American Diplomacy, 1900-1950, p. 43.





the Russo-Japanese War, Roosevelt worked to insure equality of power. Recognizing that the Moroccan crisis of 1905 constituted a threat to the status quo in Europe, Roosevelt helped persuade France and Great Britain to negotiate with Germany. In the early part of the century, Croly could see that America could not continue its unrealistic isolationist policy toward Europe. Predicting that the United States would eventually have to become involved in Europe, he warned his country in 1909 against becoming overcommitted in the Far East.<sup>60</sup>

On the other hand, the "traditionalist" or Populist progressives, whose philosophy on foreign affairs Wilson came to represent, were seldom concerned with conceptions of power and order in their attitude toward international relations. It is true that early in the century these progressives generally followed Theodore Roosevelt's brand of foreign policy in supporting United States expansionism, but they did so mainly for idealistic, moralistic and rather naïve and simple reasons. To men like William E. Borah and Robert M. LaFollette, for example, the war with Spain was an effort to free the repressed Cubans from an old-world, decadent and aristocratic power. Because the United States was a democratic country, "any extension of its domain was per se an extension of freedom and democracy."<sup>61</sup> And once the fighting had ended and the emotionalism surrounding entry into the war had died down,

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<sup>60</sup> Croly, The Promise of American Life, pp. 311-312.

<sup>61</sup> Walter Johnson, William Allen White's America (New York: Henry Holt, 1947), p. 111.



many "traditionalists" joined the anti-imperialist cause. William Jennings Bryan was at first a leader in the movement to block ratification of the treaty with Spain. Many of these "traditionalists" returned to their belief that "the people are moral; so if they are led into war and imperialism, it is because of the baleful influence of selfish interests,"<sup>62</sup> and in retrospect blamed the old moneyed interests for having involved the United States in war.

Woodrow Wilson came to represent the "traditional" progressive viewpoint in foreign affairs as Theodore Roosevelt typified the "modernist" progressive philosophy. While realism, power and order were Roosevelt's watchwords in his conduct of foreign relations, morality, idealism, legalism and peace were Wilson's. By displaying morality in its dealings with other nations, the United States would exert leadership by setting an example for the world. In this way (rather than by building up its military might) America would be strong. Peace would result from moral relations carried on among nations and from the exertion of world opinion on states that strayed from the path of righteousness.

Living up to these ideals, Wilson declared an end to dollar diplomacy in 1913. In 1914 he asked Congress to repeal a section of an act that exempted American coastwise vessels from paying Panama Canal tolls. Wilson announced in October, 1913 that he wanted the friendship

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<sup>62</sup>Robert Endicott Osgood, Ideals and Self-Interest in America's Foreign Relations (Chicago: The University of Chicago Press, 1953), p. 104.





of the Latin American countries and that he would seek it by never taking further territory by conquest.<sup>63</sup>

Despite these good intentions, Wilson and his Secretary of State William Jennings Bryan found themselves embroiled in the Caribbean to an even greater extent than Roosevelt and Taft had been. The "traditionalists" Wilson and Bryan found that they had inherited a foreign policy that required "protection of the future Panamanian life line," and to change it would have meant too great a deviation from previous policy.<sup>64</sup> Of course, these men believed wholeheartedly in the missionary role of America, and this concept influenced their handling of foreign affairs. To them intervention in Central America, the West Indies and Mexico was a moral act because the United States was thereby helping its neighbors straighten out internal disruption, saving them from foreign domination and teaching them how to establish stable, democratic governments.<sup>65</sup>

In the Mexican intervention, Wilson displayed his idealism in addition to this messianic concept. Straying from the practice of de facto recognition of any established government, which had been in effect since the time of Thomas Jefferson, Wilson withheld recognition from the Huerta government because he thought that in so doing he could help unseat Huerta and bring about free elections.

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<sup>63</sup>New York Times, March 12, 1912, p. 1.

<sup>64</sup>Foster Rhea Dulles, America's Rise to World Power, 1898-1954 (New York: Harper & Bros., 1954), p. 88; Link, Woodrow Wilson and the Progressive Era, p. 94.

<sup>65</sup>Link, Woodrow Wilson and the Progressive Era, pp. 81, 93.





Morality and idealism were also involved in Wilson's assessment of the war that broke out in Europe in 1914. As the conflict progressed, Germany became more and more the villain in the mind of Wilson. Germany was immoral because of its submarine attacks on passenger ships. By looking at the question of the sinking of merchant ships by German submarines as a simple matter of right or wrong and by ignoring the real causes of the war, Wilson was unable to compromise on his "strict accountability" stand; for to do so would have been to admit that he had not been absolutely right and the Germans not absolutely wrong. Hence Wilson set his country on a course that would inevitably lead to war.

Since he did not view the world situation through the eyes of a realist, Wilson did not see or even look for such things as the struggles for power among nations and the hopes and aspirations of other peoples in his judgment of the war. All he could do was cling to outdated rules of warfare in order to try to defend American neutral rights. A true "traditionalist" in this respect, Wilson looked backward; he was unwilling to accept the fact that new methods of conducting war and new weapons (especially the total blockade and the submarine) had made many of the old rules inapplicable.

The idealism and legalism of the Wilsonian approach is exemplified in its adherents' attitude toward methods of keeping the peace. Prior to World War I, "traditional" progressives like Bryan and Wilson put their faith in arbitration. Despite efforts to set up a Permanent Court of Arbitral Justice at the Hague Conferences of 1899 and 1907 by Secretaries of State John Hay and Elihu Root, what resulted from these



meetings was only the Hague Permanent Court of Arbitration. This "court" was merely a panel of potential arbitrators named by the contracting states that could be drawn from if any of the nations decided to submit a dispute to the tribunal.<sup>66</sup> Supported by a good many "traditional" progressives, it was in essence an idealistic and non-committal approach to peace keeping. The United States signed the agreements that came out of both the Hague conferences with the clear reservation that nothing in them "shall be so construed as to require the United States to depart from the traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy or internal administration of any foreign state."<sup>67</sup>

Unlike Theodore Roosevelt, Woodrow Wilson and his followers were in favor of President Taft's general arbitration treaties with Britain and France and Secretary Bryan's "cooling-off" treaties. Of the latter Wilson said:

Whenever any trouble arises the light shall shine on it for a year before anything is done; and my prediction is that after the light has shone on it . . . it will not be necessary to do anything. . . . Moral light . . . is the most wholesome and rectifying . . . thing in the world.<sup>68</sup>

Wilson's concept of a League of Nations exemplified a similar attitude. Unmindful of shifting balances of power and national

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<sup>66</sup>Denna Frank Fleming, The United States and the World Court (Garden City, N. Y.: Doubleday, Doran and Company, Inc., 1945), p. 18.

<sup>67</sup>Foreign Relations of the United States, 1907, Part II, p. 1144, quoted in Dulles, America's Rise to World Power, 1898-1954, p. 60.

<sup>68</sup>Blum, Woodrow Wilson and the Politics of Morality, p. 94.





interests, it idealistically assumed "that the nations of the world had a harmony of interest in the general good of peace, and this harmony could be reached by each country's pursuing its own interest within the framework of the League."<sup>69</sup> The organization of this League would insure that the nations on top would stay there with no surrender of their own national interests. Keeping the peace, according to Wilson's plan, would be the task of all men in the world who would be ideally organized for that purpose. In his message to the Senate on January 22, 1917, Wilson called for "not a balance of power, but a community of power; not organized rivalries, but an organized common peace."<sup>70</sup>

However, Wilson failed in his efforts to achieve membership of the United States in the League of Nations, and much of this failure can be ascribed to the loss of a good deal of his progressive support. The rift among "traditional" progressives began over the question of United States involvement in the war. Many of Wilson's "traditionalist" colleagues--mainly the old Midwestern farm bloc--continued throughout the pre-war period to insist upon strict neutrality and total abstinence from entanglement in European affairs. These "isolationist traditionalist" progressives had always believed that war would mean an end to economic and social reform at home and that wars were caused mainly by bankers and manufacturers. Preparedness would mean the "glorification

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<sup>69</sup>Goldman, Rendezvous with Destiny, p. 212.

<sup>70</sup>Ray S. Baker and William E. Dodd, eds., The Public Papers of Woodrow Wilson, The New Democracy, II, p. 410.



of force," the use of which the "traditionalists" had rarely sanctioned.<sup>71</sup>

It was this issue of preparedness in the summer of 1915 that "caused the first real crisis in the progressive movement since 1912."<sup>72</sup> At this point a great many of the "traditionalists" parted company with Wilson. Bryan, who had earlier resigned from the Wilson government because he believed that war would result from the policy of granting loans and selling arms to the Allies while denying German submarines the right to attack merchant ships carrying contraband, took his peace campaign to the public. Robert LaFollette, now a United States Senator, declared that it was the munitions makers and the bankers who were promoting preparedness.<sup>73</sup>

LaFollette and George Norris, the insurgent progressive Senator from Nebraska, became the acknowledged leaders of the group which Wilson branded as the "little group of willful men" for successfully blocking the President's request for a bill to arm merchant ships in early 1917 after Germany announced resumption of unrestricted submarine warfare.

Both Norris and LaFollette voted against the war resolution itself. Norris said he believed that "there was no immediate threat of

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<sup>71</sup>Link, Woodrow Wilson and the Progressive Era, p. 181.

<sup>72</sup>Ibid., p. 182.

<sup>73</sup>R. M. LaFollette, "Patriots," LaFollette's Magazine, VII (November, 1915), p. 1, quoted in ibid.





war reaching American soil."<sup>74</sup> War would aid only those who had a vested interest in a British victory. "Their object in having war and preparing for war," he said, "is to make money. . . . We are going into war upon the command of gold."<sup>75</sup>

LaFollette also spoke of the greed of the moneyed interests in his Senate speech adding that a referendum should first be submitted to the people on the question of going to war and that war would discourage reform at home.<sup>76</sup>

The vote on the war resolution was indicative of the split in the "traditionalist" progressive camp. Five of the seven Senators who voted against it came from the Midwest, and in the House of Representatives progressives with a similar background also spoke against the resolution. There Representatives William LaFollette of Washington and Claude Kitchen of North Carolina, both of whom had backed progressive domestic legislation, spoke against it.<sup>77</sup> The viewpoint of this group was usually interpreted as resulting from Midwestern isolationism or from German ancestry, but Professor Goldman has suggested that this isolationism was more the reflection of a "progressive-nationality isolationism" that was "a

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<sup>74</sup>Fighting Liberal, The Autobiography of George W. Norris (New York: The Macmillan Company, 1946), p. 190.

<sup>75</sup>U. S. Congress, Congressional Record, 65th Cong., 1st sess., April 4, 1917, LV, pp. 212-214.

<sup>76</sup>Goldman, Rendezvous with Destiny, p. 185.

<sup>77</sup>Ibid., p. 186.





product of background and ideology rather than of distance from the oceans."<sup>78</sup> For this group was largely made up of progressives with a Populist-agrarian background, and their vote was consistent with the ideology of this wing of progressivism.

When the United States entered the war, the split which tore progressivism asunder appears on the surface to have grouped the "international traditionalists" with the "moderns"--the Eastern minority led by Roosevelt who had long called for intervention. But their reasons for intervention and their aims for peace differed. Roosevelt was more aware of the "American stake in the cause of European affairs" than was Wilson.<sup>79</sup> As a "modern" he did not look at the war in Europe as a simple, uncomplicated matter of European democracies being engaged in a life-or-death battle with autocracy. "By 1914 he was convinced that America's strategic interests were roughly parallel to those of England and France in restraining Germany's aggressive, expansive energy."<sup>80</sup> In the latter part of 1914, Roosevelt urged that America become militarily strong to prepare itself not only for any threat by Germany to American security but also to help secure the peace after the war.

Walter Lippmann, who was an editor on the New Republic, one of the two leading organs for progressivism in the country, was another

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<sup>78</sup>Ibid., pp. 186-187.

<sup>79</sup>Blum, Woodrow Wilson and the Politics of Morality, p. 107.

<sup>80</sup>Osgood, Ideals and Self-Interest in America's Foreign Relations, p. 135.



realist who in 1916 asked that the United States concern itself with the issue of its "vital interest in the preservation of the Atlantic community."<sup>81</sup>

Herbert Croly, Lippmann's fellow editor on the New Republic staff, wrote that to have peace a country must be strong and ready to fight. Although they at first tried to be neutral, by 1915 both Lippmann and Croly were arguing that a German or Austrian victory "would be dangerous to the security of the United States."<sup>82</sup>

In their groping for a foreign policy they could support during World War I, the New Republic editors forsook some of their "modernist" philosophy in their eagerness to find a good and strong leader for progressivism. In turning to Wilsonian traditionalism to achieve their ends, Croly and Lippmann backed first an effort to unite liberals all over the world in reform and then the policy of unconditional surrender. These stands, because they basically contradicted the "modernist" philosophy, would later contribute to the editors' decision to abandon Wilson's League effort.

Thus, by early 1918 when President Wilson presented to Congress his Fourteen Points as a basis for a peace settlement, discord among progressives was already well advanced. It could be seen not only in the fundamental split in the movement into the "modernist" and "traditionalist" wings, but also in the further division of the "traditionalist"

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<sup>81</sup>Ibid., p. 117.

<sup>82</sup>Forcey, The Crossroads of Liberalism, pp. 32, 232.





group into the "internationalists" and the "isolationists," with the latter absolutely opposed to all political involvement in Europe and the "internationalist traditionalists" willing to commit the United States to international cooperation only on a strictly legal and moral basis. This disunity would not only help defeat Wilson's plan for peace but would also contribute to the demise of progressivism as a vital reform movement and to the refusal of the United States to undertake meaningful participation in world affairs.



## CHAPTER II

### PRELUDE TO THE WORLD COURT STRUGGLE, 1920-1921

Less than five years after Woodrow Wilson reached his zenith as a leader in domestic reform and less than three years after he made his proposal to Congress for an association of nations, Warren G. Harding became President of the United States. The election of Harding in 1920 seemed to be the culmination of a trend, increasingly obvious since the end of the war, toward a general disinterest on the part of the American people in both progressivism and international cooperation.

At the beginning of the new decade, progressivism was almost completely shattered. Various reasons can be found for the disintegration of the movement that had only a few years before caught the imagination of so many Americans. Although Wilson had carried the country into the war in the name and spirit of progressivism, United States participation in the European conflict actually sounded the death knell for the movement as it was known from 1900 to 1917. While progressives should not bear all the responsibility for United States involvement in the struggle,

. . . the war was justified before the American public  
. . . in the Progressive rhetoric and on Progressive terms  
. . . . By 1912 the Progressive spirit had become so pervasive that any policy--whether it was entrance into the war as rationalized by Wilson or abstention from the war as rationalized by LaFollette--could be strengthened if a way could be found to put it in Progressive language. In the end, when the inevitable reaction came, the Progressive language itself seemed to have been discredited.<sup>1</sup>

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<sup>1</sup>Hofstadter, The Age of Reform, pp. 275-276.



Because Wilson identified his war aims so closely with peace and progressivism, he was insuring that the certain reaction to such a conflict would be accompanied by a reaction to all that he had associated with it--progressivism, idealism and the League of Nations.

Part of the explanation for the break-up of progressivism by the end of the war can be found in the moralistic, ethnocentric and nationalistic aspects of the movement. Because of the moral absolutism that pervaded the progressive philosophy, there was a belief that one simple step could eliminate each particular trouble of a nation. Prohibition, for example, could solve the problems caused by excess drinking; eliminating boss rule would end corruption in city government; trust-busting would restore America to the old, less complex society; arbitration treaties would insure peace. Accordingly, a simplistic outlook led the progressives of this persuasion to expect that a war to spread democracy to the world would end all threat of war. Such an attitude was certain to bring disillusionment.

Because many progressives believed in Anglo-Saxon superiority and in the uniqueness of the American system, they set themselves apart from foreigners even while trying to help them. Since they had difficulty translating their beliefs into world-wide principles, most progressives opposed getting involved in a European war which they believed did not concern them. Once reluctantly persuaded that they could and should carry reform to the international level, it was a short step to isolationism and complete disenchantment with reform in general when Wilson could not keep all of his promises.





Other factors also contributed to the break-up of progressivism between 1917 and 1920. Because of the complexity and diversity of the movement, it had never been able to gain control of a major political party or to successfully create one of its own. Progressivism had achieved success on the national level partly because of an accident and partly because of internal dissension in the Republican Party. The movement on the state and local levels had not been sufficiently strong to carry progressivism to the national level; Theodore Roosevelt accidentally became President and then gradually developed a philosophy that embraced some of the progressives' program.

The third party formed in 1912 was not strong enough to survive. Many of the progressives had shifted to the Democratic Party where it seemed for a time that Wilson might keep them. With the split in the Republican Party, Wilson was able to win the Presidency in 1912. By 1916, his victory was based on a new coalition of West and South that depended largely upon his being able to keep the peace as he had promised in the campaign.

However, this coalition of farmers, labor, independent radicals and middle-class reformers fell apart between 1917 and 1920. The peace-loving agrarian members opposed Wilson's entering the war. Labor became estranged because the President was hostile toward many of the great strikes of the period. Wilson called the Boston Police strike of 1919 "a crime against civilization" and denounced the United Mine Workers' strike as "a grave moral and legal wrong."<sup>2</sup>

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<sup>2</sup>William E. Leuchtenburg, The Perils of Prosperity, 1914-1932 (Chicago: The University of Chicago Press, 1958), p. 78.



Farmers were angry because the Administration would not "impose price controls in cotton while it maintained ceilings on the prices of other agricultural commodities" and because the Administration refused to help the farmers when the price of farm commodities fell drastically at the beginning of 1920.<sup>3</sup>

Attorney-General Palmer's war on radicals at home was evidence to many progressives of their movement's failure. Even progressives who had favored the war were beginning to doubt progressivism because of Wilson's program of restricting civil liberties during the war. The state that they had looked to to solve so many of their problems was now persecuting them.

Other factors that contributed to the dissolution of progressivism and to the further solidifying of the remaining "traditionalist" fragments into "isolationists" and "internationalists" were the struggle over the League of Nations and Wilson's ultimate failure as a leader in international reform.<sup>4</sup> Wilson was unsuccessful in his attempts to

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<sup>3</sup>Arthur S. Link, "What Happened to the Progressive Movement in the 1920's?" The American Historical Review, LXIV (July, 1959), p. 839.

<sup>4</sup>By 1919 many liberals were deserting the coalition because they believed that Wilson had betrayed his own Fourteen Points in the Treaty of Versailles. Oswald Garrison Villard, editor of the New York Evening Post (a liberal newspaper) and later of the Nation, deserted Wilson even before 1917 for this reason. The Dial, an important liberal magazine, also denounced the League Covenant and withdrew its support of the President. Although the New Republic editors--Herbert Croly, Walter Lippman and Walter Weyl--held on longer, by the summer of 1919 all three had decided that Wilson had sold out to the enemy by forsaking liberalism. See Selig Adler, The Isolationist Impulse, Its Twentieth Century Reaction (New York: Crowell, Collier Publishing Company, 1961), pp. 58-61.







effect United States entry into the League of Nations because of his own actions that alienated various groups of people, the domestic situation in 1919 and the effective organization and tactics employed by his opposition.

At the outset, the President angered Republicans and the Senate itself by appointing no active Republican nor any member of the Senate to the Peace Commission and by insisting at the Paris Conference that the Covenant be integrated with the Peace Treaty itself even after over one-third of the Senate signed a round-robin letter demanding that the League of Nations be considered after the peace treaty was signed.

Furthermore, the concessions that Wilson had to make at the conference in order to achieve approval of the League, which he considered to be the most important objective of his post-war peace plan, alienated many of his countrymen. The other powers would accept Wilson's League if they could retain their old advantages in the game of power politics. Because Wilson had declared in his simplistic way that secret treaties were evil and because one of the Fourteen Points outlawed them, disillusionment and anger arose among progressives and others when it was revealed that the Allied Powers had made several secret agreements to parcel out the spoils of the war. Because he had declared in his idealistic way that all peoples should have self-determination, without considering the practical economic aspects of creating viable nations or of the force of nationalism, Wilson did not realize that settlements in Europe could not be easily made to follow the ideals contained in his Fourteen Points. The results angered



European nationals in the United States whose homelands were affected as well as progressives and other liberals who blamed Wilson for betraying a principle. The mandate system was also under fire by many progressives who declared it to be just a continuation of the old colonial system.

A second factor that contributed to Wilson's failure and to the growing isolationist sentiment among the American people was the domestic situation in 1919. Industrial disputes, race riots and the fear of Communism pushed foreign affairs into the background.<sup>5</sup> Economic problems became acute. Farmers and industrialists alike had overproduced during and just after the war so that they now could not sell their goods and products at a profit, and inflation began to worry many people.

A third and major reason for Wilson's inability to achieve his goal was the organization of the Senate and the effective strategy of the opponents of the League. The Republicans gained control of the Senate in the 1918 bi-elections, organized the Senate and placed Henry Cabot Lodge in the chairmanship of the Foreign Relations Committee. From this powerful position Lodge was able to help bring about defeat of the League. In addition, the constitutional aspect of the Senate itself was responsible in part for Wilson's difficulties since the two-thirds vote required of that body for treaty ratification "makes it

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<sup>5</sup>Dulles, America's Rise to World Power, 1898-1954, p. 171.





possible for a minority of the Senators to destroy a Presidential policy which may have the support of two-thirds of the Senators."<sup>6</sup>

The opposition's early planning of its attack helped to thwart Wilson's plans. Shortly after the 1918 election, a proposal to postpone the matter of the League of Nations was made in the Senate by Senator Philander C. Knox of Pennsylvania. And soon after the President arrived in Europe to attend the Peace Conference, opposition leaders began to plan the second phase of their program. With not a word of the final Covenant as yet having been written, Roosevelt and Lodge met and agreed upon what they would oppose in a plan for a league gleaned from speeches by Wilson, the platform of the League to Enforce Peace and similar plans.<sup>7</sup>

Delay was an important part of Lodge's strategy, and he and his fellow Republican leaders in the Senate used it with telling effect. During the summer of 1919, Lodge read the entire treaty to an empty committee room and then opened hearings for those who for one reason or another did not like the territorial settlements.<sup>8</sup>

The reaction to Wilson's plans for peace constituted perhaps the final step in the process of disintegration of the progressive movement.

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<sup>6</sup>Kenneth Colegrove, The American Senate and World Peace (New York: The Vanguard Press, Inc., 1944), p. 13.

<sup>7</sup>Denna Frank Fleming, The United States and the League of Nations, 1918-1920 (New York: G. P. Putnam's Sons, 1932), p. 75.

<sup>8</sup>Fleming, The United States and the World Court, p. 29.





Three main groups developed in the Senate with differing views on the League: those who favored the President's League, those who wanted no League and those who would accept the Covenant with reservations. There were progressives in all three groups.

Those who backed the League with no reservations were Democrats. Although some would have favored reservations, all but four remained "blindly loyal" to their Party chief "until it was clear that the battered ship was sinking."<sup>9</sup> A few like Walsh of Montana were considered progressives.

Those who were opposed to any league were known as Irreconcilables. Mainly Republicans, these Senators were isolationists in the sense that they desired for their country "aloofness from the 'internal political and military affairs' of Europe. . . ."<sup>10</sup> Included in this group of about seventeen were conservative Republicans like George Moses of New Hampshire and Frank B. Brandegee of Connecticut, four Democratic defectors,<sup>11</sup> as well as "isolationist traditionalist" progressives like Borah, Johnson and LaFollette who thought that entry into any league would constitute dreaded political entanglement in Europe. Believing that the

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<sup>9</sup>Thomas A. Bailey, Woodrow Wilson and the Great Betrayal (New York: The Macmillan Company, 1945), p. 55.

<sup>10</sup>Bernard Fensterwald, Jr., "The Anatomy of American 'Isolationism' and Expansionism, Part I," The Journal of Conflict Resolution, II (1958), p. 112.

<sup>11</sup>The four Democrats were Thomas P. Gore of Oklahoma, John K. Shields of Tennessee, David I. Walsh of Massachusetts, and James A. Reed of Missouri. See Bailey, Woodrow Wilson and the Great Betrayal, p. 53.



United States should exercise only a moral influence in world affairs, Borah, who was known as leader of the group, objected strongly to Article X that would bind League members to "respect and preserve as against external aggression the territorial integrity and independence of other member nations."

Since the Irreconcilables believed this involvement in Europe to be entirely wrong, they would accept no reservations. Wilson, on the other hand, was convinced that his League was entirely right. They were alike in that both Wilson--an "international traditionalist" and the irreconcilable "isolationist traditionalist" progressives were looking at the issue in their usual uncomplicated manner of right versus wrong; good versus evil.

Actually, under Article X the United States would not be legally bound to participate in forceful action against an aggressor. The Council was empowered to advise the steps that should be taken in the case of aggression against a member nation; and since the United States would have been a member of the Council, it could have blocked any action. While Wilson in answering the critics of Article X emphasized the fact that the United States would be only morally bound, he would not agree to any reservation because that would be striking at the "nation's honor" and the "heart of the Covenant."<sup>12</sup>

Reservationists ranged from mild to strong. Most had long favored an international peacekeeping organization, and many like William H.

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<sup>12</sup>Dulles, America's Rise to World Power, 1898-1954, pp. 121-122.





Taft and Lawrence Lowell had helped organize or had supported the League to Enforce Peace. But as Wilson's plan for a League of Nations crystallized, many of these people had begun to worry in varying degrees about the possible jeopardizing of American interests that membership in the League might cause.

Spokesman for the mild reservationists in the Senate was the progressive Irvine Lenroot from Wisconsin who favored reservations covering withdrawal from the League and protection of the Monroe Doctrine in order to placate those who thought them necessary. He thought reservations regarding Article X were necessary because it obligated the United States to wage war over unjust causes.<sup>13</sup>

The strong reservationists were led by Henry Cabot Lodge who said that more reservations were essential in order to protect the interests of the United States.

By October 1919, the mild reservationists had joined with the strong reservationist forces in the face of Wilson's unbending position. Finally, the Foreign Relations Committee reported to the Senate a proposal for fourteen reservations to the Treaty including those that safeguarded American rights of withdrawal from the League, forbade the United States' accepting any mandates, reserved all domestic questions to American jurisdiction, protected the Monroe Doctrine from the jurisdiction of the League, refused obligation to abide by any action agreed to by the League in which the British dominions had voted until the

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<sup>13</sup>Fleming, The United States and the League of Nations, 1918-1920, pp. 268-269.



United States had six votes and denied any responsibility to go to the defense of another League member against an aggressor unless the Congress "shall by act or joint resolution so provide."

Three votes were taken on November 19, 1919--twice with reservations and once with no reservations. Successfully thwarting all efforts of the Senators who wanted a league with or without reservations, the thirteen Republican Irreconcilables voted with the faithful Wilsonian Democrats against the Treaty with reservations and with the reservationists against the Treaty as signed.

Of these thirteen Irreconcilables, six were progressives or moderate progressives. They were Borah of Idaho, Joseph I. France of Maryland, Asle Gronna of North Dakota, Johnson of California, LaFollette of Wisconsin and Norris of Nebraska.

On March 19, 1920, moderate Republican and Democratic Senators sought a way to compromise; but the same problems arising from Article X, the Monroe Doctrine and equal voting rights in the League, as well as the adamancy of Senator Lodge and President Wilson, made such efforts futile.<sup>14</sup> The vote taken on the Treaty with fifteen reservations showed forty-nine for and thirty-five opposed. Needing a two-thirds majority for passage, the measure failed by seven votes.

Thus in the spring of 1920 with the Presidential campaign and election imminent, Wilson, the once great progressive leader stood

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<sup>14</sup>Frederick L. Paxson, Postwar Years: Normalcy, 1918-1923, (Berkeley, Calif.: University of California Press, 1948), p. 122.





defeated in his efforts to carry reform to the international level. The entry into the war and the President's peace-making efforts had driven "moderns" from the progressive fold leaving fragments of "isolationist traditionalists" and "international traditionalists," neither of whom, with the exception of two or three Democrats, would agree to Wilson's League. Some Democrats, a few of whom were progressives, would continue to argue in behalf of the idealistic, Wilsonian brand of international cooperation. But the state of progressivism, coupled with a general weariness with both the war and peace efforts on the part of the American people made it appear that neither world cooperation nor domestic reform would be decisive in determining who would be the next President of the United States.

## II

Reformers, however, did not suddenly disappear from American politics. Though diminishing in number, liberal elements were struggling outside the two major political parties to gain a voice in the affairs of the nation. But these groups could not agree sufficiently to pool their strength in one national organization. Moreover, they lacked a national leader.

In the Midwest and the Northwest, the Non Partisan League, an organization that had started in North Dakota to help the farmer gain control of the marketing process, was still quite strong in spite of its having been discredited during the war because of its criticism of war profiteering. In South Dakota, Minnesota, Idaho and Nebraska this party held a number of legislative seats.





Several labor parties had been organized during the war, and in 1918 many of them joined to form the National Labor Party which later became the Farmer-Labor Party. An attempt in July, 1920 by a group of progressives to form a third party in conjunction with the Farmer-Labor Party and nominate Senator Robert LaFollette of Wisconsin as its Presidential candidate failed.

In addition to the ineffectiveness of these reform elements, further evidence of the diminishing importance of progressivism in the country and the nation's desire to "return to normal" could be found in the proceedings of the conventions held by the two major political parties. Progressivism was rejected in the Republicans' choice of Presidential and Vice-Presidential candidates and in their platform as well. It was only slightly significant in the Democratic ticket and platform.

On the Republican side, progressives hoped to get Hiram Johnson nominated for the Presidency, but progressivism never constituted a real threat at the convention.<sup>15</sup> Instead, Republicans chose the dark-horse candidate, Senator Warren G. Harding of Ohio, generally known as a friend to big business and for his conservatism, and Governor Calvin Coolidge of Massachusetts, the old-line Republican who had gained fame

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<sup>15</sup>A few Bull Moosers, survivors of the old T. R. wing of the movement, got together following the convention, but they knew that the end had come for their brand of progressivism. See Oswald Garrison Villard, "The 'Unbossed' Republican Convention," Nation, CX (June 19, 1920), pp. 820-821; Harold L. Ickes, The Autobiography of a Curmudgeon (New York: Reynal & Hitchcock, 1943), p. 234.



for calling out the National Guard during the Boston police strike, as its Vice-Presidential candidate. Although the leaders of the convention at first favored the progressive Senator Lenroot for the Vice-Presidential nomination, delegates stampeded for Coolidge and another reaction against liberalism.<sup>16</sup>

While the Democrats showed some interest in progressivism in choosing as its Vice-Presidential nominee Franklin D. Roosevelt, a man who had shown some liberal tendencies as a New York legislator, the selection of James M. Cox as their Presidential candidate revealed little more than a superficial concern for progressivism. Although Cox had built a reputation as reform governor of Ohio, his second term was not known for its progressivism; and during the war he became nationalistic and worked to place restraints on labor violence.<sup>17</sup>

The press generally agreed that the Republicans had picked a conservative, old-guard ticket, and liberal magazines were disappointed in the selection of Cox by the Democrats. The mildly conservative Outlook regarded the Republican choice of candidates as representing "quite exactly the economic conservatism and 'law and order' temper of the Convention, and perhaps the underlying temper of the country."<sup>18</sup> The New Republic commented that the Democratic convention had forsaken

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<sup>16</sup>New York Times, June 13, 1920, p. 1.

<sup>17</sup>Wesley M. Bagby, The Road to Normalcy: The Presidential Campaign and Election of 1920 (Baltimore: The Johns Hopkins Press, 1962), pp. 73-75.

<sup>18</sup>Frederick M. Davenport, "Conservative America in Convention Assembled," Outlook, CXXV (June 23, 1920), pp. 377-378.





"the social vision of 1912 and 1916," verifying Oswald Villard's prediction of June 26.<sup>19</sup>

The Outlook and the Independent agreed that basically the platforms of the two parties were alike except for the League plank. True, the parties did differ on the tariff, but few people were interested in that now. Planks on labor, agriculture and railroads were essentially alike. But with the League issue, the Democrats meant what Wilson did and, as Harold Howland put it for the Independent, "the Republican platform means nothing."<sup>20</sup>

The Democratic plank on the League of Nations advocated ratification of the Treaty of Versailles without reservations which would impair the League's "essential integrity," and it stated that the League was the "surest, if not the only, practical means of maintaining the permanent peace of the world."<sup>21</sup>

The Republican platform approved the Senate's rejection of the Versailles Treaty and rebuked Wilson for insisting upon his own kind of League. As to an international association to insure peace in the world, the plank read as follows:

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<sup>19</sup> Bagby, The Road to Normalcy, pp. 121-122; Oswald Garrison Villard, "The Ghosts at San Francisco," Nation, CX (June 26, 1920), p. 845a.

<sup>20</sup> Harold Howland, "You Can Lead a Donkey to Water but the Jackass Won't Drink," Independent, CIII (July 17, 1920), p. 67; "The Democratic Convention: Its Candidates and Platform," Outlook, CXXV (July 14, 1920), pp. 489-491.

<sup>21</sup> New York Times, June 30, 1920, p. 1.



We believe that such an international association must be based upon international justice and must provide methods which shall maintain the rule of public right by development of law and the decision of impartial courts which shall secure instant and general international conference whenever peace shall be threatened by political action, so that the nations pledged to do and insist upon what is just and fair may exercise their influence and power for the prevention of war.

We believe that all this can be done without the compromise of national independence, without depriving the people of the United States in advance the right to determine for themselves what is just and fair when the occasion arises and without involving them as participants and not as peacemakers in a multitude of quarrels, the merits of which they are unable to judge.<sup>22</sup>

This plank, which the New York Times characterized as a compromise, declared against the League and in favor of an international court. It was designed to satisfy everyone in the Party.

The League of Nations was the major issue in the 1920 campaign, but it was a confusing one. Harding had the problem of keeping the support of both the reservationists and the anti-League Republicans. The former group contained conservative Republican internationalists like Elihu Root, ex-President Taft and Nicholas Murray Butler, as well as some "internationalist traditionalist" progressives like Senator Irvine Lenroot of Wisconsin and William Allen White, the editor from Emporia, Kansas. The anti-League group or "irreconcilables" contained the "isolationist traditionalist" progressives like Borah, Johnson and LaFollette as well as conservative Republican isolationists like Senator George H. Moses of New Hampshire. In an effort to avoid alienating either segment, the Republican standard bearer remained equivocal on

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<sup>22</sup>Ibid., June 11, 1920, p. 3.





the subject of the League throughout the campaign. Although he condemned Wilson's League, he appeared to favor an association of nations based on the Hague Tribunal and the League of Nations.

But later when his opponent, Cox, argued that Harding's plan for modifying the League would mean that the United States could not join the World Court then being established at the Hague because it was an integral part of the League, the Irreconcilables<sup>23</sup> began to put pressure on Harding to flatly reject the League.<sup>24</sup> Borah and Johnson were afraid that the United States would be taken into the League via the "back door," that is, by way of the World Court.

Undoubtedly fearing the loss of support from these elements in the Party, Harding made what looked like a switch and declared that he sought outright rejection of the Covenant. He said he was "in favor of drafting, revising or remaking an association of nations to maintain civilization without surrendering anything we hold dear in our United States of America."<sup>25</sup>

The Democratic nominee at first stressed his firm support of the League and ridiculed Harding's "fence-straddling position," but he

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<sup>23</sup>The term "Irreconcilables" as applied to the World Court issue signifies those Senators who opposed entering the World Court under any circumstances. This was essentially the same group as that which opposed entry into the League of Nations as might be expected since their main objection to the Court centered about what they believed to be its integral relationship with the League.

<sup>24</sup>New York Times, September 16, 1920, p. 1; October 20, 1920, p. 1.

<sup>25</sup>Ibid., October 8, 1920, p. 1.





became worried about a statement by thirty-one prominent Republicans that a vote for Harding would be the most likely means of effecting United States membership in the League of Nations. Shortly before election day, Cox declared that the United States should take on no obligation to come to the aid of other League members in case of aggression "unless approved and authorized by Congress in each case."<sup>26</sup>

When the people of the United States gave their overwhelming approval to Warren G. Harding and Calvin Coolidge as leaders of the country, few observers believed that they had voted for or against either progressivism or international cooperation per se. The Independent thought the League played some part in the decision and that "the voters were with Lodge in his reservations. . . . They were not willing to go into a partnership in which . . . neighbors furnished the liabilities and the United States the assets."<sup>27</sup> And Henry Cabot Lodge was to write a few years later that "Mr. Wilson desired and had demanded an appeal to the People. That appeal was duly made and fully met and the result is history."<sup>28</sup> However, others have differed sharply with such an interpretation.

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<sup>26</sup> Ibid., October 12, 1920, p. 1. Also see October 24, 1920, p. 1; Karl Schifftgiesser, This Was Normalcy, 1918-1923 (Berkeley, Calif.: University of California Press, 1948), p. 78.

<sup>27</sup> Talcott Williams, "Harding's Election; Wilson's Defeat," Independent, CIV (November 13, 1920), p. 222.

<sup>28</sup> Henry, Cabot Lodge, The Senate and the League of Nations (New York: Charles Scribner's Sons, 1925), p. 210.



One analysis of the vote that elected Harding is that it was most of all a vote against Wilson. The progressive Nation wrote:

It was not pro-Republican, and not remotely pro-Harding, but was simply anti-Wilson; it was a remarkably unanimous vote for a new deal, an entire change in government. The country is absolutely through with Woodrow Wilson and his works, and was so bent upon cleaning house that it took heed of no programs and voiced nothing constructive whatever.<sup>29</sup>

The Outlook agreed that the vote was a "national sweep against Wilsonism." Issues played only a small part.<sup>30</sup>

Walter Lippmann offered his interpretation of the 1920 election results in his book Public Opinion:

The Republican majority was composed of men and women who thought a Republican victory would kill the League, plus those who thought it was the most practical way to procure the League, plus those who thought it the surest way offered to obtain an amended League. All these voters were inextricably entangled with their own desire or the desire of the other voters to punish the Democrats for going to war, or to punish them for not having gone sooner, or to get rid of Mr. Burleson, or to improve the price of wheat, or to lower taxes, or to stop Mr. Daniels from outbuilding the world, or to help Mr. Harding to do the same thing.<sup>31</sup>

As Lippmann has suggested, the reasons that people voted as they did are impossible to sort out. To name just a few factors

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<sup>29</sup>"The Triumph of Reaction," Nation, CXI (November 17, 1920), p. 548.

<sup>30</sup>"What Started the Republican Avalanche?" Outlook, CXXVI (November 17, 1920), pp. 499-504.

<sup>31</sup>Walter Lippmann, Public Opinion (New York: The Macmillan Company, 1961), pp. 195-196.





involved in the voting: Irish Americans were angry because the Democratic Administration had not intervened for the Irish Free State; the Italian Americans had similar feelings because of Fiume; the German Americans probably blamed Wilson through Cox for not living up to promises made to the German people. Some Americans voted against Cox because they associated Democrats with corruption, and some probably voted for Harding in order to protest the worsening economic conditions. Perhaps the most positive statement that can be made concerning the election results is that they showed that the American people were seeking a "return to normalcy."<sup>32</sup>

Although the League of Nations issue was the major one in the campaign, the candidates did not make it a clear-cut one; on the contrary, they made it seem more confusing as the campaign progressed. Harding's speeches for the most part condemned the League, it is true; but he kept speaking of an "association of nations" while Cox at the end of the campaign suggested that he would agree to reservations to the Treaty. Although Harding himself chose to interpret his victory as a mandate from the people to restore party government and to keep the United States out of the League of Nations,<sup>33</sup> the election left

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<sup>32</sup>The votes polled by the Farmer-Labor Party and the Socialists are indicative of this lack of desire for change. The former received about 270,000 votes and the latter about 197,000 votes.

<sup>33</sup>Two days after his election, Harding announced that the question of adhering to the League was "now deceased." See Fleming, The United States and the World Court, p. 38.



unanswered the question of how much or what kind of international cooperation the American people wanted.

Hence when the new Administration entered office in March 1921, it was impossible to predict whether or not the increasingly evident isolationism in the country would be sufficient to preclude entry of the United States into the World Court which had officially come into existence on December 31, 1920.<sup>34</sup>

There were indications that the road to internationalism generally would be a difficult one. Agreement on a league of nations, for example, seemed unlikely with progressives disenchanted with reform on the international level, with the old Republican internationalists and other reservationists such as the "international traditionalist" progressives disagreed on the kind of world organization that would best serve the interests of the country and with the people as a whole tired of the issue.

As for the possibility of other moves toward world cooperation, such as membership in the World Court, several circumstances were already present that would work against it. The general war-weariness of the people and the accompanying desire to return to normal living, as well as the worsening economic conditions at home during 1920, combined to cause Americans to look inward.

In addition, two former sources of leadership in international cooperation offered little hope for helping to change this attitude.

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<sup>34</sup>New York Times, December 31, 1920, p. 10. The establishment of the Court will be described in Chapter III.





Although it is true that the progressive spirit still lived, particularly in the Midwest, a significant point to remember is that the largest desertion from the progressive ranks immediately following the war had been from the middle-class, urban wing which contained the "moderns," and that the progressive leaders were now mainly representatives of the Populist-rural segment of progressivism. Centered mainly in the Republican Party, the latter were, with very few exceptions, Irreconcilables or reservationists concerning the League and in many ways were generally isolationist in foreign affairs. They could thus be expected to oppose the World Court absolutely or at the least to insist upon reservations that would carefully protect American sovereignty. The Irreconcilables had already warned during the campaign that membership in the Court would mean being taken into the League by the "back door" and that United States interests would be jeopardized by such membership.

The other former source of leadership in international cooperation was the Democratic Party--the Party of Wilson which still contained a few agrarian-type "traditionalist" progressives. But this Party had become more and more divided on the issue of foreign policy since the final defeat of the Treaty of Versailles; and now that it had been decisively beaten at the polls, it would need to appease the isolationists in order to win back the North and Midwest.

### III

A good many people in both the major political parties undoubtedly still hoped to salvage something from the sacrifices of war





by finding a way to insure international peace. They may have thought that, even if agreement on a league of nations was impossible, perhaps adherence to the World Court could still be an effective substitute or a first step toward eventual membership in the League. However, the new Administration offered little hope for positive action in either domestic or foreign affairs. Progressivism, raised to the national level by Presidents Theodore Roosevelt and Woodrow Wilson, was conspicuous for its absence in the government headed by Warren Gamaliel Harding.

This was particularly evident in Harding's choice of men to fill cabinet posts. Charles Evans Hughes, appointed Secretary of State, was the only appointee who had any record of past progressivism. A former liberal governor of New York, Hughes had succeeded in getting through the legislature a moderate workmen's compensation act, bills for the benefit of labor and measures providing for state regulation of water power.<sup>35</sup> But his subsequent six years on the Supreme Court and his later stint as a Wall Street attorney had for the most part ended the progressive phase of his career.

With the exception of Herbert Hoover, the remainder of the Cabinet was chosen for personal and political reasons; it was essentially a conservative, businessman's Cabinet.

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<sup>35</sup>Dexter Perkins, Charles Evans Hughes and American Democratic Statesmanship (Boston: Little, Brown and Company, 1946), pp. 25-26.



Harding was more than willing to delegate authority to these appointees. Speaking of both the Harding and Coolidge Administrations, Harold U. Faulkner has written, "It would be difficult, if not impossible, to find eight years of Federal history in which policies were more clearly framed by department heads rather than by the President."<sup>36</sup>

In foreign relations, "Hughes clearly assumed leadership."<sup>37</sup> The fact that Harding chose Hughes (although he was the President's third choice for the job) seemed to some observers to mean that he would be willing to have the United States enter both the League and the World Court. But Harding at first continued his vagueness on the subject of international cooperation. In his inaugural address he stressed his desire for the country to return to normalcy, while his plans for world organization remained indefinite.

Obviously burying the League of Nations as then constituted as far as United States participation was concerned, he said

. . . America, our America, the America builded on the foundation laid by the inspired fathers, can be a party to no permanent military alliance. It can enter into no political commitments, nor assume any economic obligations which will subject our decisions to any other than our own authority.<sup>38</sup>

Suggesting that he would support a World Court but in no way endorsing the Court being organized in Europe, the President commented:

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<sup>36</sup>Harold U. Faulkner, From Versailles to the New Deal, Vol. LI of The Chronicles of America Series, ed. by Allan Nevins (56 vols.; New Haven: Yale University Press, 1950), p. 84.

<sup>37</sup>Ibid., p. 84.

<sup>38</sup>Ibid.





We elect to participate in suggesting plans for mediation, conciliation, and arbitration, and would gladly join in that expressed conscience of progress which seeks to clarify and write the laws of international relationship, and establish a world court for the disposition of such justiciable questions as nations are agreed to submit thereto. . . . but every commitment must be made in the exercise of our national sovereignty.<sup>39</sup>

It appeared that Harding planned to find a way "between the two extremes of isolation and internationalism. . . . Hughes was to be allowed a relatively free hand in arranging the details. . . ." <sup>40</sup>

In the light of his past record such a position would be consistent with the Secretary of State's views on the subject of international cooperation. Hughes had displayed little interest in the League to Enforce Peace while it was being organized. As a candidate for the Presidency in 1916, he had campaigned equivocally for American participation in "an international organization to keep the peace."<sup>41</sup> But with so many prominent men in his Party (such as William A. Taft, A. Lawrence Lowell and Henry Cabot Lodge) supporting it, Hughes could hardly criticize the League to Enforce Peace; and in mid-July of the election year he gave his "emphatic approval" to the League's program.<sup>42</sup>

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<sup>39</sup> Ibid., p. 5.

<sup>40</sup> Paxon, Postwar Years: Normalcy, 1918-1923, p. 198.

<sup>41</sup> Merlo J. Pusey, Charles Evans Hughes (New York: The Macmillan Company, 1959), II, p. 431.

<sup>42</sup> Betty Glad, Charles Evans Hughes and the Illusions of Innocence (Urbana, Ill.: University of Illinois Press, 1966), p. 167.



However, from the time that a first draft of the League of Nations Covenant reached the United States, Hughes disliked Article X. Committing the United States to sanctions to help keep world peace would not only mean breaking with traditional American foreign policy, but it would also present practical problems because of the inconsistencies of American politics and the lack of provision for future changes in boundaries of nation states.<sup>43</sup>

Although he took a stand for "mild reservations" during the League battle in the Senate, Hughes never really accepted the principle of collective security.<sup>44</sup> Attracted to the Wilsonian emphasis on legal methods of settling international disputes, Hughes favored reliance on the World Court rather than on Wilson's League as a means of maintaining world peace. In August 1920, Hughes declared that "the essentials of a League . . . were the creation of an international court, of agencies of conciliation and conference."<sup>45</sup> But upon

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<sup>43</sup>Perkins, Charles Evans Hughes and American Democratic Statesmanship, p. 75; Adler, The Isolationist Impulse, Its Twentieth Century Reaction, p. 92.

<sup>44</sup>Hughes was never specific in public about his feelings on sanctions until after the League issue was dead. In speeches delivered in 1923 and 1925 he stated the problems that sanctions would entail. See Glad, Charles Evans Hughes and the Illusions of Innocence, p. 173; Perkins, Charles Evans Hughes and American Democratic Statesmanship, pp. 77-78.

<sup>45</sup>Perkins, Charles Evans Hughes and American Democratic Statesmanship, p. 81; Norman A. Graebner, ed., An Uncertain Tradition: American Secretaries of State in the Twentieth Century (New York: McGraw-Hill Book Company, Inc., 1961), p. 134.





becoming Secretary of State Hughes soon gave up his plan for getting the Covenant with reservations approved because of the opposition to the League that was still in the Senate and because Harding was not willing to fight for the League.<sup>46</sup>

While the League issue looked hopeless, bringing about United States adherence to the World Court seemed to have a reasonable chance for success. Here was an opportunity for Hughes to advance a cause in which he had long been interested. As a lawyer and Supreme Court justice, the Secretary of State had a keen interest in law. He was familiar with the Hague Peace Conferences of 1899 and 1907 and with problems involved in setting up a court of international justice. As the Republican candidate for the Presidency in 1916, he supported the world court idea; and in a 1917 speech delivered before the National Conference on Foreign Relations, Hughes stressed the importance of setting up a permanent court of international justice. During the 1920 Presidential campaign he spoke in favor of such a court and followed closely the work of the Commission of Jurists which was then drawing up the statute for the Permanent Court of International Justice at the Hague. The Assembly of the League approved the statute on the same day that Hughes agreed to enter Harding's Cabinet. "His earliest acquaintance with the World Court plan had convinced him that one of his major

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<sup>46</sup>Pusey, Charles Evans Hughes, II, p. 432; Graebner, An Uncertain Tradition: American Secretaries of State in the Twentieth Century, p. 135.





tasks as Secretary of State would be to win adherence of the United States to it."<sup>47</sup>

Harding agreed to go along with Hughes' plans to try to win the Senate's consent to adherence; however, during the first year that he was in office, Hughes took a cautious approach for two reasons. He knew the Irreconcilables would be antagonized by a revival of the League question that the World Court issue would entail according to Borah's "back door" thesis. In addition, Hughes was preoccupied with his plans for the Washington disarmament conference, which was to be convened in November 1921, and he was anxious not to antagonize the Senate before any treaties that might come out of that conference could be ratified.

#### IV

In spite of the fact that Harding chose the strongest Republican available to be his Secretary of State, the executive branch of government would still not have the upper hand in foreign affairs; for, as Denna F. Fleming has put it, "the Senate was in the saddle so far as foreign affairs were concerned and the irreconcilable minority dominated the Senate." Certainly the make-up of the Senate and especially of the Foreign Relations Committee offered little hope to those who advocated the United States' taking positive steps toward insuring international peace. The Irreconcilables were even stronger than they

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<sup>47</sup>Pusey, Charles Evans Hughes, II, p. 594.



had been in the days of the League fight. Ten of the twelve Republican Irreconcilables who had voted against the Treaty of Versailles with reservations in March, 1920 were still in the Senate, and the other two had their seats taken by other Republicans. "Most of the Democrats who had voted against the treaty were also still there."<sup>48</sup>

On the Foreign Relations Committee were the same "bitter-enders" who had battled Wilson successfully: William E. Borah of Idaho, Frank Brandegee of Connecticut, Hiram Johnson of California, George Moses of New Hampshire and Medill McCormick of Illinois. Senator Henry Cabot Lodge still held his post as chairman of this powerful committee. Although he had proclaimed himself to be a reservationist, he had aided the Irreconcilables with his arguments against the Covenant, and there is some question as to whether he actually had wanted the League even with reservations.<sup>49</sup> At any rate, Lodge could now be counted with the "bitter-enders" since the Republican Party had not broken up as a consequence of the League fight.<sup>50</sup>

These irreconcilable Senators now claimed that their policy in regard to the League of Nations had been overwhelmingly approved by

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<sup>48</sup>Denna Frank Fleming, The Treaty Veto of the American Senate (New York: G. P. Putnam's Sons, 1930), p. 171; Pusey, Charles Evans Hughes, II, p. 431.

<sup>49</sup>Fleming, The United States and the World Court, p. 189; Pratt, Challenge and Rejection, The United States and World Leadership, 1900-1921, p. 197; Adler, The Isolationist Impulse: Its Twentieth Century Reaction, pp. 64-65.

<sup>50</sup>Fleming, The United States and the World Court, p. 41.





the people in the election of 1920. Lodge declared in the Senate on April 20, 1921, that Americans had chosen Harding as President for a clear reason: "There can be no question, I think, as to how they voted and that they voted against the Covenant of the League of Nations."<sup>51</sup>

Two of the other members of the Committee were near Irreconcilables. They were Harry S. New of Indiana and John K. Shields of Tennessee. Shields was a Democrat who had defected from the Wilsonian camp to the position of a strong reservationist. These eight members could be expected to dominate the remaining eight members: Porter J. McCumber of North Dakota, Frank B. Kellogg of Minnesota and James Wadsworth of New York, all Republicans who favored international cooperation; Gilbert Hitchcock of Nebraska, Claude Swanson of Virginia, Altee Pomerene of Ohio and Key Pittman of Nevada, Democrats and moderates on the League. John Sharp Williams, Democrat of Tennessee, was faithful to Wilson and often had pleaded his cause during the League debates.<sup>52</sup>

As for progressivism in the Senate, what was left of it in 1921 was concentrated largely in a loosely organized group known as the Farm Bloc. The Senators in this bloc were, for the most part,

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<sup>51</sup>Congressional Record, 67th Cong., 1st sess., April 30, 1921, Vol. LXI, p. 838.

<sup>52</sup>Fleming, The United States and the World Court, p. 41; Fleming, The Treaty Veto of the American Senate, pp. 131, 146-147.



Midwesterners and Southerners who were nominal Republicans, but a few were Democrats. Their primary interest lay in alleviating the conditions of the farmers who were suffering from the effects of the severe depression in agriculture that occurred in 1920.

Arthur Capper of Kansas was generally considered to be the leader of the larger wing of the Farm Bloc. On record as opposing monopoly, this segment was especially interested in the means by which financial and industrial elements from the East were trying to gain control of agriculture. The smaller section of the Bloc, lead by Robert LaFollette of Wisconsin, George Norris of Nebraska and William E. Borah of Idaho, was concerned with helping the middle income group of farmers.<sup>53</sup>

Capper, who entered the Senate in 1919, had been among those recalcitrant Republicans in Kansas during the progressive period who had worked for such state laws as regulation of corporations, maximum railroad rates and tax reforms. In the Senate he was mainly interested in getting Federal legislation passed to aid the farmers. Under his leadership, the Farm Bloc managed to push through Congress between 1921 and 1923 the Packers and Stockyard Act that put rates of merchants and stockyards under public control, the Grain Futures Act that placed control of grain exchanges in the hands of the Secretary of Agriculture, the Capper-Volstead Act that stipulated that anti-trust laws did not apply to farm cooperatives and the Agricultural Credits

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<sup>53</sup>Schriftgiesser, This Was Normalcy, pp. 100-101.





Act setting up twelve Intermediate Credit Banks which could make loans to farmers.<sup>54</sup> A reservationist on the issue of the League, Capper in March 1919 had joined several distinguished Republicans including William H. Taft, George W. Wickersham and A. Lawrence Lowell in issuing a statement to the effect that reactionary elements who feared a loss of their vested interests provided the basis for the opposition to the League.<sup>55</sup>

George Norris, the formidable foe of the power trust and Senator from Nebraska, had served in the House of Representatives from 1903 to 1913 and had been in the Upper House since 1913. He was one of the fifteen Irreconcilables on the League in the Senate and had become famous for his joining the filibuster against the "armed peace" measure of Wilson's in 1916 and for his angry speech against the war resolution.

Robert LaFollette, the old progressive and long-time enemy of monopoly, had served in the House from 1885 to 1891 and had been in the Senate since 1906. His opposition to American involvement in the war as another example of imperialism had earned him the epithet of "traitor" in some quarters, but by 1920 his stand had been largely forgotten or forgiven. Following the war he had joined with the Irreconcilables in fighting the League Covenant.

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<sup>54</sup>Nye, Midwestern Progressive Politics, p. 234; Leuchtenburg, The Perils of Prosperity, 1914-1932, pp. 101-102.

<sup>55</sup>Congressional Record, 67th Cong., 1st sess., April 30, 1921, LXI, p. 859.





The leader of the Irreconcilables on the League, William E. Borah was a progressive in his own way; but he could usually be relied upon to support the Republican ticket in a national election so that he often had the support of both liberals and old-guard Republicans. Along with Hiram Johnson of California, Borah could not be depended upon to vote consistently with the progressive group in the Senate, but conservatives generally regarded both men with wariness. Both men achieved their greatest fame by taking negative positions.

Johnson was another Irreconcilable on the League who had been on the Senate Foreign Relations Committee during the League battle and who was still there in 1921. He had entered the Senate in March, 1917. A man with past progressive tendencies, Johnson as Governor of California had successfully pushed for constitutional amendments that provided for the initiative, referendum and recall and for state regulation of utilities. But since 1914, Johnson had been making plans to become President, and because of this he forsook many of his old progressive beliefs and supporters. His campaign for the Republican nomination in 1920 was "from the first to the last day of its life, . . . dedicated to the defeat of the League idea."<sup>56</sup> He had been opposed to the United States entering the war and now was doubly convinced of the wrongness of further foreign entanglement. Fearful of Hughes as Secretary of State, Johnson said that as a member of the Foreign Relations Committee

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<sup>56</sup>Mowry, The California Progressives, p. 282.



he hoped he could delay if not prevent the United States from getting involved in Europe in one way or another.<sup>57</sup>

Other progressives or near-progressives who were still in the Senate in 1921 were Albert B. Cummins, Republican of Iowa; Joseph I. France, Republican of Maryland; Irvine Lenroot, Republican of Wisconsin; Kenneth McKellar, Democrat of Tennessee; Charles L. McNary, Republican of Oregon; Robert L. Owen, Democrat of Oklahoma; Morris Sheppard, Democrat of Texas and Thomas J. Walsh, Democrat of Montana. Elected in 1920 was Peter Norbeck, Republican of South Dakota, who was considered to be a moderate progressive.

No longer as progressive as he once had been, Cummins had begun the progressive movement in Iowa as governor. Elected to the Senate in 1908, he and Dolliver of Iowa had opposed the Payne-Aldrich Tariff bill. Irvine Lenroot, a LaFollette follower from Wisconsin, came to the Senate in 1918 and before that served in the House from 1909 to 1918. Thomas J. Walsh was elected to the Senate in 1912. Interested in public welfare, Walsh advocated a child-labor amendment and woman's suffrage. He had worked for the section in the Clayton Act that exempted farm organizations and trade unions from being prosecuted under the Sherman Anti-trust Act.

The bi-elections of 1922 increased the number of progressives in Congress. Their success was probably due to the work of the Conference for Progressive Political Action, which had been formed as

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<sup>57</sup> John D. Hicks, Republican Ascendancy, 1921-1933 (New York: Harper & Row, 1960), p. 131.





a result of a meeting called by the railroad brotherhoods to which the whole range of liberals had been invited. This group decided to move slowly toward organizing a possible third party and to merely endorse candidates for the 1922 fall elections.<sup>58</sup>

These elections spelled victory for many Midwestern Farm Bloc progressives. In Minnesota the Farmer-Labor Party sent Henrik Shipstead, who had stood with the Bull Moosers in 1912, to take Frank Kellogg's Senate seat; and the next year it sent the even more radical Magnus Johnson to replace Knute Nelson who died. The Non-Partisan League in North Dakota elected Lynn J. Frazier, the former farmer and governor, who won over Porter J. McCumber, a man with a twenty-four year record in the Senate. Iowans chose Smith Wildman Brookhart, who for twenty years had been advocating various radical measures to aid the economically distressed farmers, to replace William S. Kenyon whom Harding had appointed to a Federal judgeship in the hopes of reducing the effectiveness of the Farm Bloc.<sup>59</sup>

In Michigan another progressive, Jim Couzens, was elected to the Senate. Although a multimillionaire himself, Couzens fought against special privilege. As a partner of Henry Ford, he had persuaded Ford to accept the \$5.00 work-day, and he favored higher taxes for the rich.<sup>60</sup>

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<sup>58</sup>Nye, Midwestern Progressive Politics, pp. 325-326.

<sup>59</sup>George H. Mayer, The Republican Party, 1854-1964 (New York: Oxford University Press, 1964), p. 385.

<sup>60</sup>Ray Tucker, Sons of the Wild Jackass (Boston: L. C. Page & Company, 1932), pp. 221-222.



Burton K. Wheeler made a successful bid for a Senate seat on the Democratic ticket in Montana. Wheeler had been pressured by his own party into resigning from his district attorney's post during the war because of his alleged pro-German sentiments. He had then worked with the Non-Partisan League in Montana to block repeal of the state primary law. In 1920 he had unsuccessfully sought the governorship of Montana.

Another westerner, Clarence C. Dill of Washington, was elected to the Senate in 1922. A Democrat, Dill had been elected to the House of Representatives in 1914 and served there until 1919. He lost in the 1918 election because of his vote against the declaration of war against Germany. Dill had received his early political training from Tom Johnson, the progressive reform mayor of Cleveland, Ohio. Two years after he entered the House, Dill had joined the progressives after being inspired by William Jennings Bryan.<sup>61</sup>

The majority of progressives in both houses of Congress during this period represented states in the Midwest or their near-neighbors which had a history of Populism and agrarian discontent and which in many cases still contained an active Non-Partisan League organization. By the count of the magazine Current History, there were twenty-three radical insurgents in the House after the 1922 elections. Fifteen were from Wisconsin, five from Minnesota, one each from Kansas and North Dakota and one (Fiorello LaGuardia) from New York.<sup>62</sup> Out of

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<sup>61</sup>Ibid., pp. 249, 254.

<sup>62</sup>Nye, Midwestern Progressive Politics, pp. 326-327.





twenty progressives in the Senate, eleven were from Midwestern states, three were from the South or Southwest, five were from the West and only one represented an Eastern state.

Thus, remaining progressives on the national level of government in the early 1920's were, with the exception of Congressman LaGuardia, who represented urban workers in New York City, and Senator France of Maryland, men associated with the "traditional" progressive background of the early movement. The long-time leaders--Borah of Idaho, Johnson of California and LaFollette of Wisconsin--are convincing examples. George Norris was also a part of this tradition in many ways; however, in domestic affairs he anticipated the New Deal in his efforts to commit the government to a policy of developing the Tennessee Valley.

The elections of 1922, which appreciably increased the ranks of the progressives in the Senate, did not indicate a revival of the old progressivism as some have claimed. As George H. Mayer has pointed out, the relation between this progressivism of the early twenties and the old progressivism was slight because of its almost exclusive interest in agriculture. The early progressivism objected to special privileges for any group and "even after Roosevelt and Wilson had converted a disinterested crusade for the purification of American institutions into a program of subsidizing underprivileged groups, Progressivism embraced many elements besides agriculture."<sup>63</sup>

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<sup>63</sup>Mayer, The Republican Party, 1854-1964, p. 386.





Thus with most of the surviving progressives in the Congress either members of or inheritors of the old, "traditionalist" segment of progressivism and with their having drastically narrowed their field for reform, what was left was the group with its fear of labor, its suspicion of the immigrant and its hatred of the city.

Farmers tended to blame everything they disliked, from jazz to communism, on alien influences operating in the urban East. Here the farm bloc parted company with its middle-class allies of the Progressive era. In the process, it restored the old cleavage between the city and country and drew the lines as in the Populist decade.<sup>64</sup>

Such a group would be unlikely candidates for leadership in promoting meaningful cooperation with other nations. From past performances and in the light of the second division in progressivism (the one separating the "traditionalists" into "international" and "isolationist" camps), these progressives of the twenties could be expected to be either isolationist or willing to cooperate in the interests of world peace only if it could be done without any impingement on United States sovereignty.

An examination of the voting records of the progressives who had been in Congress during the Wilson period bears this out to a large degree. Following upon Germany's announcement of unrestricted warfare on armed merchant ships, the Gore Resolutions were introduced into the Senate. These resolutions sought to forbid Americans from traveling on armed belligerent vessels and included a clause stipulating that the loss of American lives in the destruction by Germany of an armed

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<sup>64</sup>Ibid.



merchant ship was cause for war. On a vote taken on March 3, 1916, to table this measure, Borah, Cummins, LaFollette and Norris all voted "no," or for an isolationist position, while Owen, Walsh and Sheppard voted "yes."<sup>65</sup>

The resolution passed by the Senate on February 3, 1917, endorsing Wilson's breaking of diplomatic relations with Germany following that country's resumption of unrestricted warfare and the subsequent sinking of the U.S.S. Housatonic carried by a vote of seventy-eight to five. Three of the five Senators who voted against the measure were progressives in the old Populist tradition: LaFollette, James K. Vardaman of Mississippi and Asle Gronna of North Dakota.<sup>66</sup> Borah, Cummins, Norris, Owen, Sheppard and Walsh all voted for passage.<sup>67</sup> But this vote, which appeared to be one for European involvement, can be explained by the strong feelings aroused by the loss of American lives in submarine attacks. It seems clear that most of these men still hoped that war could be avoided.

In accordance with his policy of armed neutrality following the break in diplomatic relations with Germany, the President asked Congress for authorization to arm merchant ships. In the House the bill passed

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<sup>65</sup>Congressional Record, 64th Cong., 1st sess., LII, pp. 3465, 3720.

<sup>66</sup>Vardaman served in the Senate from 1913 to 1919, and Gronna was a United States Senator from 1911 to 1921.

<sup>67</sup>Congressional Record, 64th Cong., 2nd sess., LIV, p. 2749.





403-413 with Dill, Lenroot and McKellar voting "yes." However, this vote was taken after passions were aroused by the publication of the Zimmerman note sent by the German Foreign Minister to the German minister in Mexico suggesting that Mexico and Germany form an alliance if the United States entered the war. Prior to the release of this note, Dill and Lenroot had voted "yes" on a motion to recommit the bill to committee. In the Senate, Cummins, LaFollette and Norris, along with two other progressives--Asle Gronna of North Dakota and Moses Clapp of Minnesota--participated in the filibustering maneuver to block passage of the bill.<sup>68</sup>

When it came to the war resolution itself, Dill, LaFollette and Norris stuck to their "isolationist-traditionalist" convictions and voted "no."<sup>69</sup>

On the Versailles Treaty, which contained the League Covenant, Borah, France, Norris, LaFollette and Hiram Johnson, who entered the Senate in 1917, were total Irreconcilables; they voted against the Treaty with reservations and against the Treaty as signed. Senator Lenroot led the mild reservationists; but by the time the issue was brought to a vote, he and his followers had lined up with the strong reservationists to whose ranks Cummins had long belonged. Both Lenroot and Cummins voted for the Treaty with reservations and against it as signed.<sup>70</sup>

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<sup>68</sup>Ibid., pp. 4693, 4691; Nye, Midwestern Progressive Politics, p. 308.

<sup>69</sup>Congressional Record, 65th Cong., 1st sess., LV, pp. 261, 412-413.

<sup>70</sup>Ibid., 66th Cong., 1st sess., LVIII, pp. 8786, 8802-8803.



Walsh fought loyally for Wilson's League. On November 19, 1919, he voted against the League with reservations and for the treaty as signed. Like Wilson, Walsh stressed the moral pressure that such an organization would bring to bear on potential breakers of the peace and reminded the Senators that the League itself could not make war. Later, however, Walsh saw the need for compromise; and on the final vote, he voted for the League with reservations. Senator Owen's votes matched those of Walsh; Senators McKellar and Sheppard, on the other hand, stuck with Wilson all the way and voted against the Treaty with reservations and for the Treaty as signed.<sup>71</sup>

The voting records of the "traditionalist" progressives who were carry-overs from the Wilson period show that one--Robert LaFollette--had a perfect score for isolationism. If one excepts the vote to sever diplomatic relations with Germany, Norris also shows a perfect record of voting on the isolationist side, while two--Borah and Johnson--had nearly perfect scores with only their votes on the war resolution opposing isolation. France did not enter the Senate until 1917. His voting shows more isolationism than internationalism; for although he voted for the war resolution, he was an Irreconcilable on the League. Dill's vote against the war declaration places him in the isolationist camp.

Senators Capper, Cummins and Lenroot took a traditional, legalist type of internationalist position. They would agree to the

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<sup>71</sup>Ibid.





United States entering the League of Nations, for example, if the country's interests could be adequately protected with reservations. Cummin's votes matched Borah's except for the League issue. Capper and Lenroot did not enter the Senate until after the United States entered the war; but as a Representative, Lenroot appeared to be lining up on the side of Wilsonian internationalism.

McKellar, Owen, Sheppard and Walsh (all Democrats) voted for the internationalism of their chief on the war measures, and they did not insist upon reservations for joining the League. However, as devotees of Wilson, their stance was not based on a realistic appraisal of how American interests would be served by the President's policy. Moreover, they seemingly gave little thought to what the defunct "modernists" had regarded as the primary consideration in international relations--the reliance on national power.

Referring to the convenient labels ascribed to the two segments of the progressive "traditionalist" camp, the score sheet on the war and peace-keeping measures reads as follows: six "isolationist traditionalists" (LaFollette, Norris, Borah, Johnson, Dill and France) and seven "international traditionalists" (Capper, Cummins, Lenroot, McKellar, Owen, Walsh and Sheppard).

## V

The nature of both the Senate and the Executive in 1921 thus made positive action toward entry into the World Court, or even evaluating the merits of participation, seem unlikely. The President was





determined to set the nation on the road to normalcy and willing and even anxious to delegate authority in foreign affairs; the Secretary of State was strong enough to lead yet hampered by the "legalist" mentality and fearful of League encroachment on national sovereignty; the Senate Foreign Relations Committee was still dominated by the Irreconcilables and the progressives, who held the balance of power in the Senate, were primarily concerned with agricultural problems. When these progressives did address themselves to foreign affairs, most of them favored either withdrawal from the world or international cooperation only under certain limited circumstances.<sup>72</sup>

Action on the League of Nations proved hopeless. A few faithful Wilsonites tried in the Senate to revive interest in the world organization, but their speeches could not hold back the tide of normalcy; the Irreconcilables held the day. A separate peace treaty between the United States and Germany, ratified by the Senate on October 18, 1921, was a big step forward in the Irreconcilable "isolationist-traditionalist" program of extrication from Europe.

Stipulated in this document was the provision that the United States would have all the "rights and advantages" enjoyed by signatories

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<sup>72</sup>Only four of the thirteen progressive "carry-overs" from the Wilson period (McKellar, Owen, Sheppard and Walsh) had not insisted on reservations for entering the League. These men would probably favor entry into the World Court, but the progressives elected to the Senate in 1922 were not likely to increase their numbers appreciably. Only two of those elected were Democrats, and one of these (Dill) had demonstrated his isolationist position while a member of the House of Representatives.



of the Treaty of Versailles, "notwithstanding the fact that such Treaty has not been ratified by the United States."<sup>73</sup>

Evidence of the increasing Senate dominance of foreign policy was the provision that made ratification of the Treaty subject to the understanding "that the United States shall not be represented or participate in any body, agency or commission, nor shall any person represent the United States as a member of any body, agency or commission in which the United States is authorized to participate by this treaty, unless and until an act of Congress of the United States shall provide for such representation or participation."<sup>74</sup> By this provision the Senate was, in effect, telling the President that he could not exercise a constitutional duty until authorized to do so by the Senate.

Another example of Senatorial initiative during this period was the resolution passed in June, 1921 asking the President to invite the governments of Great Britain and Japan to participate in a conference to reduce "naval expenditures and building programs." It was the "traditionalist" progressive Senator Borah who introduced the resolution into the Senate in April, 1921. Such an action was consistent with the progressive mind of the twenties. Disarmament agreements among nations conformed with the Populist belief that human evil could

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<sup>73</sup>U.S., Department of State, Papers Relating to the Foreign Relations of the United States, 1921, II, p. 31.

<sup>74</sup>Ibid., p. 33.





be abolished by forbidding it by law. Borah (and many of his colleagues) applied this principle to prohibition, war and armaments.<sup>75</sup>

The Washington Arms Limitation Conference that grew out of Borah's resolution met from November, 1921 to February, 1922. It succeeded in limiting battleship construction and in ending the Anglo-Japanese alliance. Following approval by the Senate of these treaties, another year would pass before the Harding Administration would act on the World Court proposal as a next step in keeping the peace.

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<sup>75</sup>Marian C. McKenna, Borah (Lansing, Mich.: University of Michigan Press, 1961), p. 282.



## CHAPTER III

### REACTION TO THE WORLD COURT PROPOSAL, 1922-1924

In late 1921 and early 1922 work was going ahead in Europe to establish and perfect the World Court. When the war broke out in 1914 and as it progressed, the need for an international court with more powers than those of the Permanent Court of Arbitration became more and more apparent. When the Peace Conference convened in Paris in January, 1919, it was expected that some effort would be made to establish a court. Wilson's early drafts for a league did not refer specifically to an international court but only to arbitration. The drafts considered by the Commission on the League of Nations contained general provisions for a court whose exact nature would be worked out later.<sup>1</sup>

Largely at the insistence of the French, Italians and representatives of small European neutral countries, Wilson had agreed at the Conference that a permanent world court should be established. Consequently, a provision in Article XIV of the League Covenant directed the Council to "formulate and submit to the members of the League for adoption, plans for the establishment of a Permanent Court of International Justice." This article stated that "the court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it" and it "may also give an advisory

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<sup>1</sup>Manley O. Hudson, The Permanent Court of International Justice (Cambridge: Harvard University Press, 1925), pp. 5-6.



opinion upon any dispute or question referred to it by the Council or by the Assembly."<sup>2</sup>

Sir Eric Drummond, a member of the organization committee of the League of Nations, had asked President Wilson to suggest an American lawyer to serve on the committee to draw up a plan for the Court. Wilson suggested Elihu Root, former Secretary of War, Secretary of State and United States Senator and a distinguished lawyer as well. Colonel House had asked Root in July, 1919, if he would accept such an invitation. Since formal consideration of the Treaty was just getting underway in the Senate at that time, Root refused saying that he thought it unwise for him "to entertain a proposal for such an appointment pending the action of the Senate upon the ratification of the Treaty."<sup>3</sup>

Nearly a year later, on March 9, 1920, Root was formally invited to serve by the Secretary General of the League of Nations, Sir Eric Drummond. By this time the Versailles Treaty had been voted down in the Senate, and Root accepted the invitation.

Among the ten members of the Commission of Jurists, which convened on June 16, 1920, was Lord Phillimore of Great Britain with whom Root was to work closely. The proposal that was presented finally to the League was known as the Root-Phillimore Plan because it was largely the product of the labor of these two men.

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<sup>2</sup>The German Treaty Text (London: Institute of International Affairs, 1920), p. 18.

<sup>3</sup>Philip C. Jessup, Elihu Root, Vol. II: 1905-1937 (New York: Dodd, Mead and Company, 1938), p. 418.





It was Root who suggested that the Committee use the acts and resolutions of the Second Hague Conference of 1907 as a basis for its work. As Secretary of State, he had recommended the plan for a Court of Arbitral Justice that had been drawn up by the Conference but that had never been implemented because of a disagreement over the method of choosing judges.

In the summer of 1920, Root set forth a proposal to solve the 1907 problem. The significant difference between circumstances in 1920 and those in 1907 was that in 1920 the League of Nations existed. Root, with the cooperation of Lord Phillimore, proposed to make use of this body by having the "Council and the Assembly ballot concurrently but separately on nominees to the Court, an ordinary majority in both bodies to elect."<sup>4</sup> This compromise was based upon the settlement reached by the framers of the United States Constitution that provided for equal representation of the states in the upper house of Congress and representation based upon population in the lower house. In the League of Nations, the large nations controlled the Council and the small nations controlled the Assembly. In the same way that the two houses of the United States Congress voted on bills separately and when deadlocked used a conference committee to reach agreement, so would the two main organs of the League vote on the list of nominees to the bench of the Court. And if an impasse between the Council and the Assembly resulted, a conference committee would resolve the problem.

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<sup>4</sup>Fleming, The United States and the World Court, p. 37.



Believing that the judges should be chosen with regard to their professional qualifications and not for their political loyalty, Root strongly opposed a proposal that the nominations of the judges be made by governments. His plan, which was adopted by the committee, called for the national groups in the panel of the Permanent Court of Arbitration, which had been set up by the First Hague Conference in 1899, to nominate four persons each. No more than two of these four could be of the same nationality as the nominating group. The entire list of nominees would then be sent to the Assembly and the Council of the League.<sup>5</sup>

Root also was successful in getting the committee to agree with him that the Court should have compulsory arbitration powers. In his argument, he pointed to the fact that traditionally international courts had been used by nations only when each disputant had agreed to abide by the decision of the court in advance. However, the League Assembly in its day-long debate over the Committee's report threw out this compulsory arbitration clause because the large countries would not agree to it. But an optional clause was added that would allow those member nations which wished to do so to agree to compulsory arbitration on a reciprocal basis.<sup>6</sup>

The report of the Commission of Jurists was adopted by the Assembly of the League of Nations on December 13, 1920. On December 16,

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<sup>5</sup>Jessup, Elihu Root, II, p. 421.

<sup>6</sup>Ibid., p. 422; Hudson, The Permanent Court of International Justice, p. 19.





the Protocol was opened for signatures of nations wishing to adhere; and the plan for the Court approved by the Assembly and Council was added to it as a statute. With twenty-eight countries having ratified this treaty, it came into force in September, 1921.<sup>7</sup>

With the first election of judges held on September 14-16, the Court was ready to function. A preliminary session at the Hague ran from January 20 to March 24, 1922, during which organization of the Court was completed. Although the American members on the Panel of the Permanent Court of Arbitration did not participate in the nominations from which these judges were chosen, an American, John Bassett Moore, who had represented the United States on the Panel, was among those elected. Elihu Root was nominated by five countries, but he refused the nomination partly because of his age (he was then seventy-six) and partly because he felt he could be of more value serving as a delegate to the upcoming Disarmament Conference to be held in Washington.<sup>8</sup>

Root's plan for electing the judges worked quite well in practice. Eighty-nine people were listed as nominees, four of whom refused to be considered. From the remaining, eleven judges and four deputy judges were to be chosen "regardless of their nationality," and were to have the "qualifications required in their respective countries for appointment to the highest judicial offices," or were

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<sup>7</sup>Manley O. Hudson, The World Court, 1921-1934 (4th ed.: Boston: World Peace Foundation, 1934), p. 5.

<sup>8</sup>Jessup, Elihu Root, II, p. 424.



to be "juri-consults of recognized competence in international law."<sup>9</sup>

After five ballots in the Assembly and one in the Council, the lists of eleven judges nominated by the two organs had nine identical names. The next ballot revealed two more common selections. Three more deputy judges were chosen after three additional ballots, and a fourth deputy judge was selected by a joint conference committee as provided in the Statute.<sup>10</sup>

Not intended to supplant the Permanent Court of Arbitration, the Permanent Court of International Justice, or World Court, held two types of jurisdiction: "(a) in contentious cases; (b) on requests for advisory opinions."<sup>11</sup> In contentious cases the parties concerned would have to consent in order for the Court to have jurisdiction. This consent could be given in one of two ways--either by special agreement at the time a case was submitted or by previous agreement which gave the Court compulsory jurisdiction in certain cases. Under Article 36 of the Statute, any country, if it wished to do so, could declare that it accepted obligatory jurisdiction either reciprocally or otherwise.<sup>12</sup>

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<sup>9</sup>"The Permanent Court of International Justice, Statute and Rules," published by the Institut Intermediaire International which is listed among the Publications of the Court as Series D, No. 1, reprinted in Hudson, The Permanent Court of International Justice, p. 340.

<sup>10</sup>Hudson, The Permanent Court of International Justice, p. 9.

<sup>11</sup>Hudson, The World Court, 1921-1934, p. 7.

<sup>12</sup>Jessup, Elihu Root, II, p. 422.





Another source of "compulsory jurisdiction" was existing treaties that provided for compulsory arbitration as in the case of the Danish-Italian Treaty of 1905.<sup>13</sup>

On May 12, 1922, a resolution was passed by the Council which allowed for all states to use the Court whether League members or not. Having been mentioned in the annex to the Covenant, the United States was already eligible to adhere to the Protocol.

## II

Hughes, in spite of his silence on the subject, was waiting for the opportune moment to urge American adherence. Finally, on October 30, 1922, he spoke out. In a speech delivered in Boston he said

We favor, and always have favored, an international court of justice for the determination according to judicial standards of justiciable international disputes. I believe that suitable arrangements can be made for the participation by this Government in the election of judges of the International Court which has been set up, so that this Government may give its formal support to that court as an independent tribunal of international justice.<sup>14</sup>

Delivering this speech in Boston was part of Hughes's strategy to secure his objective. There on the home-grounds of Senator Lodge, Chairman of the Senate Foreign Relations Committee, Hughes spoke of the Senator in a complimentary way. Lodge was ill at the time; so Hughes

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<sup>13</sup>Hudson, The Permanent Court of International Justice, p. 20.

<sup>14</sup>Jessup, Elihu Root, II, p. 597.





sent him a copy of the speech which Lodge praised as being "a very great speech indeed."<sup>15</sup>

Interpreting this comment as meaning that Lodge was favorable to his proposal on the Court, Hughes again tried to persuade Harding to take action. The President was willing, but he wanted to wait until other matters had received action in Congress before sending a message on the World Court.

In February of 1923, Harding still had taken no action. Therefore, Hughes prepared a lengthy letter to the President stating the procedure he believed the United States must follow in order to make adherence to the Protocol possible. Anticipating the objections that might be raised by the Irreconcilables, Hughes was careful to show in this letter that although its judges were chosen by the League, the Court did not depend entirely on the League for its existence. The Protocol could not actually come into effect until it was ratified by a majority of the participating nations, and the Court was open to countries that were not members of the League.

In proposing four reservations and conditions to accompany his plan of adherence, Hughes hoped to satisfy any objections that might be raised in the Senate.<sup>16</sup> The four reservations were as follows:

1. That such adhesion shall not be taken to involve any legal relation on the part of the United States to

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<sup>15</sup>Ibid., p. 598.

<sup>16</sup>Perkins, Charles Evans Hughes and American Democratic Statesmanship, p. 91.



the League of Nations or the assumption of any obligations by the United States under the Covenant of the League of Nations constituting Part I of the Treaty of Versailles.

2. That the United States shall be permitted to participate, through representatives designated for the purpose and upon an equality with the other states, members respectively of the Council and Assembly of the League of Nations, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy judges of the Permanent Court of International Justice, or for the filling of vacancies.

3. That the United States will pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

4. That the statute for the Permanent Court of International Justice adjoined to the protocol shall not be amended without the consent of the United States.<sup>17</sup>

Several factors helped to convince Harding to send Hughes's letter, along with his endorsement, to the Senate. One was a resolution that the senior Senator from Idaho had recently introduced into the Senate. Disenchanted with the results of the Washington Conference and with disarmament in general as a means of insuring world peace and sensing the need for a positive approach to satisfy his constituents, Senator Borah had been studying for the past six months a plan for peace that called for the outlawing of war. He had been working with Salmon O. Levinson, a Chicago lawyer, but he never accepted Levinson's plan completely because of the problem of enforcement. As one part of his proposal, Levinson favored a world court for settlement of disputes, but Borah worried about what kind of court, and with his "isolationist-traditionalist" viewpoint could not accept "Levinson's fundamental

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<sup>17</sup>Congressional Record, 67th Cong., 4th sess., February 24, 1923, LXIV, p. 4500.





assumption that war was an institution sanctioned by law. . . .<sup>18</sup>

Borah believed that war often was waged because it was regarded by the world as a legal tool of foreign policy. In Borah's judgment, war was initiated by evil men for evil purposes. Hence, war could be ended if it were declared illegal by the nations of the world.

On February 14, 1923, Borah introduced in the Senate his resolution for the outlawry of war. Some Republicans who were loyal to the Administration thought this action was timed to divert attention from any steps toward joining the World Court that Harding was known to be contemplating. The resolution called for three things to be done in order to outlaw war: war would be declared a crime under a universal treaty; a body of international law would be created and a "judicial substitute for war," patterned after the United States Supreme Court would carry out compulsory arbitration in international disputes.<sup>19</sup>

Senator Arthur Capper, a fellow progressive, was among the many supporters of Borah's plan. A publisher of a number of farm journals, Capper offered Borah over three million names for a mailing list. The New York Herald announced that "By March, it was the opinion of many editors that outlawry was far more acceptable to the public, especially the people of the West, than the World Court."<sup>20</sup>

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<sup>18</sup>John Chalmers Vinson, William E. Borah and the Outlawry of War (Athens Ga.: University of Georgia Press, 1957), p. 72.

<sup>19</sup>Congressional Record, 67th Cong., 4th sess., February 14, 1923, LXIV, p. 3605.

<sup>20</sup>Vinson, William E. Borah and the Outlawry of War, p. 75: New York Herald, April 18, 1923, quoted in ibid.



Both Harding and Hughes saw this move by Borah as an indication that the Irreconcilables were willing because of pressure from the voters to move toward international cooperation. Lodge's close victory in 1922 was another similar sign, they believed. A further influence on Harding was the Presidential election that was coming up the next year; he was anxious to win the support of the internationalists in his party.<sup>21</sup>

Consequently, on February 24, Harding sent to the Senate Hughes's letter recommending adherence to the World Court Protocol, along with a message endorsing the plan. In it he wrote that the letter showed

. . . how, with certain reservations, we may fully adhere and participate, and remain wholly free from any legal relations to the League or assumption of obligation under the Covenant of the League. . . . It is not a new problem in international relationship; it is wholly a question of accepting an established institution of high character, and making effective all the fine things which have been said by us in favor of such an agency of advanced civilization.<sup>22</sup>

The request was of course referred to the Irreconcilable dominated Committee on Foreign Relations where the Court was immediately denounced as a "League Court" and criticized because it lacked compulsory jurisdiction.

Senator Lodge hinted that he would not be a supporter of the plan by inquiring whether the President favored an agreement among

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<sup>21</sup>Andrew Sinclair, The Available Man, The Life Behind the Masks of Warren Gamaliel Harding (New York: The Macmillan Company, 1965), p. 274.

<sup>22</sup>Congressional Record, 67th Cong., 4th sess., February 24, 1923, LXIV, p. 4498.





the signatory powers that would obligate them to accept the Court's compulsory jurisdiction in all disputes not settled diplomatically. This question was undoubtedly meant to put the Executive on the spot; for if Hughes and Harding answered "yes," it would provide ammunition for the die-hard opponents of a court, while a "no" answer would give grounds for criticism of the Court as a weak and ineffective body. Hughes had been careful to avoid requesting acceptance of the compulsory jurisdiction clause in his letter to the President because, judging from the past record of the Senate, he knew that it would be hopeless. Thus, in reply to Lodge's inquiry Hughes wrote

In the light of this record, it would seem to be entirely clear that unless the Senate changes its attitude it would be a waste of effort for the President to attempt to negotiate treaties with the other Powers providing for an obligatory jurisdiction of the scope stated in the committee's first inquiry. . . .<sup>23</sup>

However, in spite of Hughes's care to meet possible objections to the plan for adherence to the Court and regardless of the seemingly appropriate time for presenting it to the Senate, there was no chance for its immediate success. For Congress was about to adjourn, and consideration of so important an item as the World Court proposal in the closing days of the session was too much to expect. On March 3, the final day of the session, Senator William H. King of Utah tried in vain to get the Harding-Hughes proposal considered. On a vote to consider it, twenty-four voted "yes,"

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<sup>23</sup>Pusey, Charles Evans Hughes, II, p. 600.





forty-nine "no," and twenty-three were not voting. Only five Republicans voted "yes."<sup>24</sup>

Among those voting "no" were progressives Borah, Couzens, Cummins, France, Johnson, Ladd, LaFollette, Lenroot, McNary, Norris and Walsh. Of those voting "yes," only three could be considered progressives. They were McKellar of Tennessee, Norbeck of South Dakota and Sheppard of Texas. Progressives not voting were Brookhart and Capper. These votes were indicative of the part that progressives were to play in the struggle for the World Court. The battle was just beginning and lines had not as yet been firmly drawn, but proponents of the plan had suffered the first of several defeats.

### III

With Congress in recess for nine months, the opponents of the Harding-Hughes World Court proposal began to develop and present their arguments against the plan. Senator Borah, who had expressed a desire for a world tribunal in his outlawry of war resolution, announced in a speech in New York on March 19 that he favored "a court" but not this one. He was opposed to this court because the League had rejected Root's compulsory arbitration proposal. Instead, he favored a court like the United States Supreme Court backed with moral, not military force.<sup>25</sup>

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<sup>24</sup>Congressional Record, 67th Cong., 4th sess., March 3, 1923, LXIV, p. 5273.

<sup>25</sup>New York Times, March 20, 1923, p. 20.



Borah greatly feared that the United States might be taken into the League of Nations via the "back door." The rejection of the compulsory arbitration clause by the League because it was thought to conflict with a provision for arbitration of "inquiry by the Council," underlined the fact that the Court was tied to the League.

In 1920, Borah had written of his fear of the League:

Any kind of League, and there can be no other kind framed, which politically allies us with European imperialism and the old world oppression is perfectly revolting to me. We want to be on guard every minute.<sup>26</sup>

The Court at the Hague to the "traditionalist" progressive Borah smacked of political involvement in Europe--the thing he most wished to avoid. Borah regarded this Court as "an international political tribunal."<sup>27</sup>

On April 27, 1923, the New York Times printed a forceful statement by Borah against the World Court. Lashing out at those who were defending the Court by saying that the United States could join and still stay clear of the League, he said

I think the proposition that you can go into the League Court and still continue to be against the League, or stay out of the League is the most remarkable proposition ever presented to the public. If we are called upon in the future to bear our proportion of the expenses of the entire League or see it break down and lose the Court, what will we do under such circumstances. Will we . . . say that if you people do not keep up the League, . . . we will let the Court perish? . . . If we still want the Court

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<sup>26</sup>Borah Papers, Borah to Allen L. Benson, November 5, 1920, Box 210, quoted in Vinson, William E. Borah and the Outlawry of War, p. 34.

<sup>27</sup>"Starting the Fight to Join the Peace Court," Literary Digest, LXXVI (March 10, 1923), p. 8.







. . . shall we say to the League people: You fight it out. . . . Does anybody think that under these circumstances, a reservation--one of those technical things that lawyers like to play with--would have the slightest effect?<sup>28</sup>

In spite of such attacks Borah was not considered at this time to be in the isolationist camp because of his outlawry of war resolution and his declared desire for a "real international judicial tribunal." Such a stand was too conciliatory for "isolationist-traditionalists" LaFollette and Johnson. LaFollette called the Harding-Hughes plan "sinister and subversive." Johnson, now the leader of the isolationists, launched his attack on the World Court in July. Just returned from Europe, he stated that he was prepared to fight to the end against American entry into the League or the World Court. The idea that the League and the Court are not related is "regarded as a joke" in Europe, said Johnson. The Court "had its genesis in the League of Nations and is part of the League machinery."<sup>29</sup>

In addition to the opposition coming from the progressive "isolationist-traditionalists" of the Borah, LaFollette, Johnson type, there were old-guard Republicans like George Moses who were firing away at the Harding-Hughes plan. Returning from a trip abroad on May 9, Moses announced that he was even more opposed to the Court than he had been two months previously. "I consider the World Court an

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<sup>28</sup>New York Times, April 27, 1923, p. 7.

<sup>29</sup>Ibid., April 27, 1923, p. 1, July 26, 1923, p. 2.



adjunct of the League of Nations," he said, "and I am absolutely against it."<sup>30</sup>

Senator Henry Cabot Lodge's position was not at first clear. On April 29 the New York Times published a letter written by Lodge in which he conceded that the United States could enter a court like the one in existence if it were created by the member nations "severally and independently." On April 27 the Massachusetts Senator wrote to Elihu Root explaining why he objected to the Court, concentrating mainly on the votes of the British Empire which he believed would give in effect six votes to Great Britain in the selection of judges because the dominions were separate members of the League of Nations.<sup>31</sup>

John T. Adams, Chairman of the Republican National Committee, joined the attack on the Court in early June. He commented that the party still remained with the sixteen million voters who had said "no" to European involvement in 1920.

Despite the growing opposition to the Court plan within his own party, Harding on April 24 firmly repeated his desire that the United States join the World Court. He based his argument for this step on the Republican Party platforms dating back to 1904. Stating that he had expected no decision by the Senate during the press of the closing days of the short session, the President said he had sent the message when he did because he believed that "the Senate, the country, and the

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<sup>30</sup>Ibid., May 9, 1923, p. 21.

<sup>31</sup>Ibid., April 29, 1923, p. 1; Jessup, Elihu Root, II, p. 429.





friendly nations whose counsel we had sought, were entitled to know that our gestures abroad were sincere. . . ." Harding assured his New York audience that the move would not be a step toward membership in the League and reminded it that the Administration on coming to power had definitely rejected joining the League.<sup>32</sup>

Hughes in a brilliant speech before the Society of International Law on April 27, 1923, analyzed and answered all of the major criticisms of the Court. Even Hamilton Holt, a severe critic of Hughes, termed the speech "by all means the most lucid, logical and irrefutable argument for the court that has appeared anywhere."<sup>33</sup> The objections and Hughes's answers to them were as follows:

(1) The Court was not in fact a world court. Hughes stated in reply that about forty-six countries had signed the Protocol and if the United States would, the other nations probably would also. How could the United States by itself set up a different world court? The United States needed the other nations' approval. How could practical changes in the matter of election of judges be made that would not be of merely a formal nature?

(2) The Court was set up by the League of Nations. The Secretary responded that the League could not have established the Court on its action alone. A special agreement had to be signed by those countries joining the Court.

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<sup>32</sup>New York Times, April 25, 1923, pp. 1-2.

<sup>33</sup>Pusey, Charles Evans Hughes, II, p. 600.





(3) Entering the Court meant entanglement. Hughes argued that the United States had never regarded treaties and special conventions for arbitration as entanglement. "If you are to treat participation in a permanent court of international justice as an entanglement foreign to our institutions, you must rewrite American history."

(4) The World Court did not have compulsory jurisdiction as a world court should. Hughes answered this objection by referring to the provision in the World Court statute making it optional for the member states to accept compulsory jurisdiction by a special agreement and stated that about fifteen had signed this agreement, not including the larger nations of Great Britain, France, Italy and Japan. Since the days of President Cleveland, Hughes reminded his audience, the Senate had steadfastly refused to ratify arbitration treaties calling for compulsory arbitration.

(5) There was no provision for enforcing the Court's decisions. Noting that some would like to have force used, Hughes argued that those who favored this would expect there to be unity among the nations; if this were the case, public opinion would be powerful, and armed force would likely not be needed.

(6) The United States should join the Court without any reservations at all. Hughes said that those who raise this objection believe that the United States should enter the League. But, he asked, "why, in supporting an institution which embodies a cherished ideal of the American people, should we revive the controversy over the League?"



(7) Because the Dominions were independent members of the Assembly, the British Empire would have six votes to the American one in the election of judges. The peoples of these dominions had long aspired to such independence and the United States should not object to such progress under the influence of Anglo-Saxon law, replied the Secretary. Hughes also noted that the United States would participate in the election not only in the Assembly but also in the Council where Great Britain would have only one vote.

(8) There should be a body of international law developed before a world court was established. Expressing his agreement with the desirability of having such a body of law first, Hughes pointed out, however, that such a process was necessarily slow, and it would take at least another generation to complete. "Meanwhile let us supply appropriate means for the application of the law we have. The two projects are not inconsistent; the one can exist along with the other."<sup>34</sup>

Of all of these criticisms, the threat of becoming involved in the League threatened at this point to be the biggest problem for proponents of the Court to overcome. The Nation, the progressive periodical, showed its concern with this stumbling block. William Hard, the magazine's Washington correspondent, predicted in early May that Borah would be even more effective in fighting the Court than he had been in

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<sup>34</sup>Charles Evans Hughes, The Pathway of Peace: Representative Addresses Delivered During His Term as Secretary of State, 1921-1925 (New York: Harper & Bros., 1925), pp. 81-88.





his battle against the League and that a "new Battalion of Death" stronger than the one that defeated the League would again use reservations as its weapons, but it would find new methods of fighting as well. Hard pictured Root as having traitorously collaborated with the Europeans in forming the League and then as having betrayed Americans by suggesting that the League elect the judges. He asked, "Are you for a Court? Certainly. We all are. But are you for an Elihu Root Court?"<sup>35</sup>

Some who favored United States adherence to the Court believed that the proponents who maintained that the Court was absolutely independent of the League were actually damaging their own cause. Herbert Hoover, for instance, argued that the Court had only a remote connection with the League.<sup>36</sup> Senator Pepper of Pennsylvania urged the Administration to give the common people a foreign policy they could understand. And the New York Times editorially favored the United States's joining the Court, but chided Hughes and Root for using "metaphysics" to convince the public that the Court was not a part of the League. Root admits, said the editorial, that there is a certain mystical moment when the connection is close; that is in the election of judges. But when this is over, the League returns to another life. If a vacancy is suddenly created on the Court, the editorial continued, the Council would have to elect a replacement; but in this case, if Hughes's

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<sup>35</sup>William Hard, "Borah Court versus Root Court," Nation, CXVI (May 2, 1923), p. 519.

<sup>36</sup>Fleming, The Treaty Veto of the American Senate, p. 174.



reasoning is followed, the United States would not really be entering the League because it is then merely an electoral body being used for this special purpose.<sup>37</sup>

Although opposition was mobilizing, a Senate survey in May by the New York Times revealed that if the Harding-Hughes Court proposal were to go before that body immediately, "it would be decided in the affirmative by an overwhelming majority." According to this poll, there would have been at least nine votes over the two-thirds majority needed to ratify. The results were as follows:

	Republicans	Democrats	Total
In favor of the Court	37	36	73
Against	7	2	9
Doubtful	7	6	13

Progressives in the Senate reacted in the following way:

For the Harding-Hughes Court proposal:

Republicans: Capper (Kansas), Couzens (Michigan), Cummins (Iowa), Lenroot (Wisconsin) and McNary (Oregon).

Democrats: McKellar (Tennessee), Owen (Oklahoma), Sheppard (Texas) and Walsh (Montana).

Against the proposal:

Republicans: Borah (Idaho), Brookhart (Iowa), Frazier (North Dakota), Johnson (California) and LaFollette (Wisconsin).

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<sup>37</sup>Editorial, New York Times, April 28, 1923, p. 12.



Doubtful:

Republicans: Ladd (North Dakota), Norris (Nebraska).

Democrats: Dill (Washington), Wheeler (Montana).

Farmer-Labor: Shipstead (Minnesota).<sup>38</sup>

This poll indicates that the dichotomy in the "traditionalist" progressive camp that had developed over the League of Nations question was again developing on the World Court issue. The "isolationist traditionalists" like Borah, Johnson and LaFollette were expressing their opposition to the Court because of its connection with the League which threatened political entanglement in Europe, while the "internationalist traditionalists" like Capper and Lenroot were willing to venture into world cooperation in a manner thoroughly circumscribed by reservations and conditions such as those outlined in the Harding-Hughes plan.

William Jennings Bryan, the old Populist-progressive, despite his announced support of the World Court, was not abandoning his old fears of being caught up in the evils of world conflict. "I am for participation with a reservation to act independently in times of war," he declared.<sup>39</sup>

The "isolationist traditionalist" progressives and other Irreconcilables continued their attack on the Court proposal during the summer of 1923. Harding planned a speaking tour on his way to Alaska

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<sup>38</sup>New York Times, May 20, 1923, VIII, p. 1.

<sup>39</sup>Ibid., April 19, 1923, p. 2.





which would give him a chance to gather support for the Court. He saw it not only as "the wisest political gesture" he could make but also as "the perfectly right thing to do."<sup>40</sup>

In his last speech on the Court in St. Louis on June 21, Harding made an attempt to win the support of both the Irreconcilables and those who favored the Harding-Hughes plan. It was a resort to the tactics he had used in the 1920 campaign. Although he praised the Court as being the practical application of the abstract principle of a judicial tribunal which he supported in 1920, he bowed to the Irreconcilables in that he admitted a connection existed between the Court and the League. Harding stated that he would "frankly prefer the Court's complete independence of the league." Two conditions were indispensable, he said, in order for the United States to join the Court "First, that the tribunal be so constituted as to appear and to be in theory and practice, in form and in substance, beyond the shadow of doubt, a world court and not a league court. Second, that the United States shall occupy a plane of perfect equality with every other power."<sup>41</sup> He then suggested that either the Court elect the judges entirely by itself or allow the Permanent Court of Arbitration to continue to nominate but give the power to elect to the rest of the members of the Court.

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<sup>40</sup>Warren Harding to Malcolm Jennings, April 16, 1923, Jennings Papers, OHS, quoted in Sinclair, The Available Man, p. 276.

<sup>41</sup>Last Speeches of President Warren G. Harding Delivered on His Alaskan Tour June to August, 1923, Reported and Compiled by James W. Murphy, Official Reporter, U. S. Senate, 1923, p. 38.



Had he lived, and had he continued along this line of thought, Harding might have lost Democratic and some of his Republican support on the Court issue in this effort to woo the Irreconcilables. Borah stopped his attacks on the proposal following this speech, and he greeted Harding enthusiastically when he stopped in Boise on his way to Alaska. Borah announced that he was pleased with Harding's "retreat on the World Court" in his St. Louis speech and said he would support the President's candidacy in 1924 if he would insist that the Court sever all connections with the League. On the other hand, several Democratic Senators, including Swanson and Pittman, voiced their strong disapproval of Harding's speech.<sup>42</sup>

Harding, however, was destined neither to have a try at another term as President nor at working to get his Court proposal through the Senate. On his return trip from Alaska, the President fell ill and died in San Francisco on August 2. The problem of the World Court thus fell to Harding's successor, Vice-President Calvin Coolidge of Massachusetts.

#### IV

Upon taking over the reins of government, Coolidge asked Harding's Cabinet to remain in office at least until the end of the uncompleted term. Although Coolidge differed from his predecessor in

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<sup>42</sup>McKenna, Borah, p. 196; Eleanor Dennison, The Senate Foreign Relations Committee (Stanford, Calif.: Stanford University Press, 1942), p. 109.





his thrift, his reserve and his dignity in office, he was like Harding in other respects. Both men believed that encouraging business would improve American society as a whole, both allowed the Senate to assume much of the initiative in foreign affairs and both believed in coordinating rather than directing the affairs of their executive officers.

Like Harding, Coolidge delegated much of the responsibility for foreign affairs to his Secretary of State. In this area the new President favored moving slowly on the question of international cooperation. He was convinced that neither the public nor the Congress would sanction any attempt to join the League of Nations and made no move in this direction. In his first annual message to Congress on December 6, 1923, Coolidge said

Our country has definitely refused to adopt and ratify the Covenant of the League of Nations. . . . I am not proposing any change in this policy; neither is the Senate. The incident, so far as we are concerned, is closed.<sup>43</sup>

Although he interpreted the election of 1920 as a mandate to reject Wilson's League once and for all, Coolidge did realize that the United States could not isolate itself completely from world affairs. Both the outlawry of war idea and the World Court interested Coolidge as possible ways of insuring world peace. The movement to outlaw war was still being led by S. O. Levinson who tried to win Coolidge

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<sup>43</sup>Fred L. Israel, ed., The State of the Union Messages of the Presidents, 1790-1966, Vol. III: 1905-1966 (New York: Chelsea House-Robert Hector Publishers, 1966), p. 2642.



to his cause. Levinson argued that whereas many people objected to the Court because it was linked to the League which embraced collective security and force, they would agree to his proposal since it relied on world law. After nations had legally banned war, they would work out a code of international law. A world court could then be established to carry out the law.<sup>44</sup>

But Coolidge was evasive toward the proponents of this plan and, instead of giving them his approval, announced to Congress on December 6 that he endorsed the Harding-Hughes World Court proposal:

Pending before the Senate is a proposal that this Government give its support to the Permanent Court of International Justice. . . . This is not a partisan question. It should not assume an artificial importance. The court is merely a convenient instrument of adjustment to which we could go but to which we could not be brought. . . . As I wish to see a court established, and as the proposal presents the only practical plan on which many nations have ever agreed, though it may not meet every desire, I therefore commend it to the favorable consideration of the Senate, with the proposed reservations clearly indicating our refusal to adhere to the League of Nations.<sup>45</sup>

The Senate to which Coolidge was making this recommendation convened in December with the membership of the Foreign Relations Committee showing some changes. First, there were now eighteen instead of sixteen members. In addition, McCumber, New and Kellogg were no longer there on the Republican side. Instead, Irvine Lenroot of Wisconsin,

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<sup>44</sup>Donald R. McCoy, Calvin Coolidge, The Quiet President (New York: The Macmillan Company, 1967), pp. 152, 156.

<sup>45</sup>Israel, The State of the Union Messages of the Presidents, 1790-1966, III, pp. 2642-2643.





Frank B. Willis of Ohio and George Wharton Pepper of Pennsylvania were now members. New Democratic members were Joseph Robinson of Arkansas, Oscar Underwood of Alabama, Thomas Walsh of Montana and Robert Owen of Oklahoma. These men replaced Hitchcock, Williams and Pomerene. Claude Swanson of Virginia, who favored the Harding-Hughes plan, became minority leader. In all there were ten Republicans, seven Democrats and one Farmer-Laborite on the committee.<sup>46</sup> Six of these eighteen members-- Borah, Johnson, Lenroot, Owen, Shipstead and Walsh--could be considered progressives.

Senator Lenroot introduced a resolution into the Senate a few days after Coolidge gave his annual message. His proposal, presented on December 10, would have cut off the Court from the League. A rather preposterous plan, it called for the forty-four charter members of the League to reestablish the court independently of the League. The election of judges would be under a new system which would divide the countries into two groups, one having the power of the Council to vote for judges and the other would have the power of the Assembly.<sup>47</sup> Denna Fleming believes that this resolution did not coincide with Lenroot's personal views but that it represented "the desires of Senator Lodge and Senator Borah."<sup>48</sup>

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<sup>46</sup>Dennison, The Senate Foreign Relations Committee, pp. 107-108.

<sup>47</sup>Congressional Record, 68th Cong., 1st sess., LXV, December 10, 1923, p. 151.

<sup>48</sup>Fleming, The Treaty Veto of the American Senate, p. 176.





It appeared that Borah the progressive and Lodge the conservative, in theory representative of the two extremes in the Republican Party, were again teaming up to defeat internationalism as they had on the League of Nations issue. Both men recoiled at the idea of the Court's possible connection with the dreaded League which would mean political entanglement in Europe. Like Borah, who had earlier professed that he favored a court but not this one, Lodge wrote in a letter to his constituents that he favored a world court but one that would "be a true World Court and not involved in any way with the League of Nations." He added that he would not favor adhering to the Protocol of the present World Court unless reservations are included "which would separate the court from the League of Nations and make it a genuine world court."<sup>49</sup> Both Lodge and Borah would employ the strategy of delay in fighting the World Court issue as Lodge had used it in the League battle.

An event which in the long run made opponents in the Senate like Borah and Lodge even more unbending and which also gave credence to the "back door to the League" charge was the awarding of the Bok Peace Prize in January, 1924 by Edward W. Bok, a wealthy retired publisher. The winning peace plan proposed that the United States enter the World Court through the method being advocated by the Coolidge Administration and recommended cooperation with the League of Nations without formal

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<sup>49</sup>New York Times, April 13, 1924, p. 3, April 27, 1924, p. 1, May 1, 1924, p. 1, December 14, 1923, p. 1.



association but with reservations that would "make allowance for important American prejudice against the League."<sup>50</sup>

A plan by Bok's organization to hold an informal referendum on the peace proposal generated opposition both within and without the Senate. There were some who charged that a plot was underway to fix the referendum by selecting certain groups and thus make it appear that a majority of the people in the country wanted the United States to join the Court. In the Senate a committee was set up to determine "whether there is any organized effort being made to control public opinion and the action of Congress upon legislative matters through propaganda, or by the use of money, by advertising or by the control of publicity. . . ." <sup>51</sup>

The Senate took no action concerning this inquiry into the effect of propaganda on its members nor did it take any steps toward dealing with the World Court proposal. For four months the Harding-Hughes plan lay ignored by the Senate Foreign Relations Committee. Senator Robinson (Democrat of Arkansas) charged Lodge on the floor of the Senate with having "very effectively and . . . finally pigeonholed or entombed the proposal of the President respecting the World Court."<sup>52</sup>

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<sup>50</sup>Adler, The Isolationist Impulse, Its Twentieth Century Reaction, p. 186: Renamed The American Foundation, the "Peace Award" organization became the most active World Court pressure group in the country.

<sup>51</sup>Ibid.; Congressional Record, 68th Cong., 1st sess., Vol. LXV, January 17, 1924.

<sup>52</sup>Fleming, The Treaty Veto of the American Senate, p. 176.





Senator Walsh of Montana pleaded for entering the Court. In a speech before a meeting of the National League of Women Voters on April 27, he cautioned advocates of the World Court not to expect too much of it saying that the Court was "but a feeble step" toward world peace--"a tribunal in which some controversies which might lead to war may be determined, and thus war averted." Adding a stab at Lodge for his delaying maneuvers, Walsh said that in spite of the fact that two Republican Presidents have recommended adherence along with nearly all of the Democrats in the Senate, the proposal "lies moribund before the Committee on Foreign Relations without any known program of the majority party for the work of the current session or any session."<sup>53</sup>

On April 9 the New York Times published a letter addressed to Lodge from the League of Nations Non-Partisan Association charging that the refusal of the Committee to report out the resolution was "contrary to the expressed will of the people." Signed by John H. Clarke, former Justice of the United States Supreme Court and President of the organization sending the letter, George W. Wickersham, ex-Senator Everett Colby, William H. Short and Charles C. Bauer, the letter demanded that Lodge "make a public statement explaining . . . his failure to act on a question of such vital concern to the nation." The letter listed forty national organizations as having endorsed the World Court proposal.<sup>54</sup>

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<sup>53</sup>New York Times, April 28, 1924, p. 5.

<sup>54</sup>Ibid., April 9, 1924, p. 3.



The New York Times editorially blamed Lodge for the delay. It is not the country that needs to be aroused, it said, "It is the Senate Foreign Relations Committee. It is, above all, its chairman who needs to be waked."<sup>55</sup>

In answer to such criticism, Lodge explained that it had been very difficult to obtain a quorum for committee meetings because the Democrats were conducting the oil investigations.<sup>56</sup> Senators Pittman and Robinson, however, were able to get Lodge to admit that the investigations had not actually held up any work that was pending in the committee.<sup>57</sup>

Lodge also explained that the Committee had been extremely busy. He said that he had never seen so many treaties taken up in one session (twenty-three, in fact) and that other treaties were more urgent since the United States could use the Hague Court (the Permanent Court of Arbitration) at any time, and it had fifty individual arbitration treaties currently in force with other countries.<sup>58</sup>

But finally, finding it impossible to ignore public opinion any longer, Lodge called a meeting to decide if hearings on the Court proposal should be held. As a consequence of this meeting, a sub-committee

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<sup>55</sup>Ibid., April 29, 1924, p. 16.

<sup>56</sup>These were investigations of the activities of the Departments of Interior, Navy and Justice in the Harding Administration.

<sup>57</sup>Congressional Record, 68th Cong., 1st sess., April 4, 1924, LXV, p. 5554.

<sup>58</sup>New York Times, April 5, 1924, p. 1, April 28, 1924, p. 4.





was appointed to hold a hearing at once. Appointed to the sub-committee were two pro-Court Democrats--Swanson and Pittman-- , three anti-Leaguers--Brandeggee and Shipstead--and the chairman--Pepper.<sup>59</sup>

The hearing, begun on April 30 and continued through May 1, 1924, was an effort to quell criticism by allowing pro-Court citizens an opportunity to be heard. The resolution which provided for the hearing did not request any recommendation or report.<sup>60</sup>

A number of prominent citizens testified to the importance of their country's joining the World Court. Among them were the former Attorney General George Wickersham representing the American Bar Association, President A. Lawrence Lowell of Harvard University, Samuel Gompers of the American Federation of Labor, Bishop Brent who was Chief Chaplain of the A.E.F. and the famed social worker Miss Jane Addams.<sup>61</sup>

Apparently deeming it a propitious time for World Court advocates to seize the initiative, Senator Claude Swanson of Virginia introduced a resolution on May 5 which proposed adherence to the Court Protocol under the Harding-Hughes plan. In retaliation, Lodge introduced another resolution on May 8 which asked for a third Hague conference of nations to be called by the President that would set up a court entirely independent of the League. Lodge's proposal was ridiculed by many as just

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<sup>59</sup>Dennison, The Senate Foreign Relations Committee, p. 112.

<sup>60</sup>Fleming, The Treaty Veto of the American Senate, p. 46; Dennison, The Senate Foreign Relations Committee, p. 112.

<sup>61</sup>New York Times, May 1, 1924, p. 1.





another part of his strategy of stalling. The Hartford Times called it "a piece of colossal impudence toward the many nations that have put the World Court into operation and an affront to the intelligence of the American people."<sup>62</sup>

Pressure from public opinion continued to mount. Another letter addressed to Lodge from a group of prominent citizens demanding that the United States enter the Court immediately was published in the New York Times on May 19, along with a statement in behalf of over fifty organizations that favored entry. Signatories of the letter included both Republicans and Democrats. Among them were John W. Davis, former ambassador to Great Britain, William Allen White and Henry A. Stimson. Assailing Lodge's plan for a new world court, the letter said it was no more practical than was Harding's plan for an association of nations for the same reason and asked if delaying action on the Court was not Lodge's real intent.<sup>63</sup>

On June 2 many of these same men urged the President to call a special session of the Senate either before or soon after the national party conventions to deal only with the World Court proposal.<sup>64</sup>

With Lenroot's proposal having failed, with Lodge's plan too impractical to be seriously considered and with pressure from public

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<sup>62</sup>"Lodge's Plan for a New World Court," Literary Digest, LXXXI (May 24, 1924), p. 13.

<sup>63</sup>New York Times, May 19, 1924, pp. 1, 3.

<sup>64</sup>Calvin Coolidge Papers, Library of Congress, Samuel Colcord, et al. to Coolidge, June 2, 1924.



opinion growing, many of the Republican members of the Senate felt impelled to find some other way out of the dilemma in which Lodge had placed them. A Presidential election was approaching in the fall, and some Republicans believed that the Court proposal should be taken up before Congress adjourned. President Coolidge also wanted to show the electorate some progress on the matter and to harmonize the differing views among members of his party.

On May 20, with the minority leader threatening to move to discharge the Committee on Foreign Relations if no action were taken soon, Coolidge asked the Republican members of the Committee to the White House for a conference. Borah, Johnson, Willis and McCormick did not attend; but Lodge, Pepper, Brandegee, Lenroot, Moses and Wadsworth were there. Pepper announced that he hoped a bill would come out of committee before adjournment, but Lodge and most of the others disagreed. According to Eleanor Dennison:

They held that there was not the nationwide interest which some would have them believe and that domestic problems were more important.<sup>65</sup>

The following day, after a successful move by the Irreconcilables to block consideration of the Swanson bill, the Committee agreed to give Senator Pepper the task of coming up with a compromise plan.

Senator Pepper presented his scheme for a revised Court plan on May 22. It proposed that the United States adhere to the Protocol "with reservations and conditions."<sup>66</sup> One of these provided for changing the

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<sup>65</sup>Dennison, The Senate Foreign Relations Committee, p. 115.

<sup>66</sup>Ibid.





Court Statute so that the Court would be completely independent of the League. The method of accomplishing this would be sure to antagonize the other member nations of the League and the Court; for they would be expected to rid themselves of League connection when dealing with Court matters. Using Root's idea for electing judges based on the Council and Assembly of the League, Pepper proposed a "council of signatories" composed of the five principal Allied and Associated powers cited in the Treaty of Versailles plus others elected by this council and an "assembly of signatories" made up of representatives of all the member nations for this task. These groups would meet when called upon to do so by the Secretary General of the Permanent Court of Arbitration.<sup>67</sup>

Thus the other nations would not be inconvenienced. Their representatives could proceed upon such a call right in their places at the League. The United States delegates would only need to enter first. In Professor Denna F. Fleming's view, accepting such a change would have been like these nations' confessing "that there was something that was sinister, or at least hardly respectable, in the relationship between the League and the Court."<sup>68</sup>

President Coolidge rejected the Pepper compromise by announcing that he would stand on the Harding-Hughes plan as he had promised. He said that he expected no action on the Court proposal before adjournment

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<sup>67</sup>Congressional Record, 68th Cong., 1st sess., May 22, 1924, LXV, pp. 9157-9158; New York Times, May 23, 1924, p. 4.

<sup>68</sup>Fleming, The Treaty Veto of the American Senate, p. 181.



of Congress in early June because of the divided opinion on the Committee represented by the Administration plan, the Lodge plan and the Pepper plan.<sup>69</sup>

Concurrently with these developments, the opposition began to voice fears about the Court's power to give advisory opinions when called upon to do so by the League Council. It was feared that the United States might be put in an embarrassing position particularly by European nations that were having difficulty in paying off war-time loans from America. Two possibilities were advanced as posing threats: (1) it might be asked why the United States Government should not redeem \$7.5 million in repudiated debts of certain "carpet bag" state governments in the South following the Civil War, (2) the Court might be asked to give an opinion on the United States immigration law excluding Japanese which violated the Gentlemen's agreement between the United States and Japan.<sup>70</sup>

The Committee on Foreign Relations decided that these possibilities warranted the inclusion of a fifth reservation that denied responsibility under all advisory opinions. To those reservations proposed by Secretary Hughes, therefore, one was added to the Swanson Resolution which read as follows:

The United States shall be in no manner bound by any advisory opinion of the Permanent Court of International Justice not rendered pursuant to a request in which it,

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<sup>69</sup>New York Times, May 24, 1924, p. 2.

<sup>70</sup>Ibid., May 25, 1924, p. 2.





the United States shall expressly join, in accordance with the statute for the said court adjoined to the protocol of signatory.<sup>71</sup>

With the addition of this reservation, the Committee was willing to bring the matter to a vote. On May 24 the Swanson Resolution was rejected by the Committee ten to eight. Voting for the resolution were Lenroot, Republican; Owen, Pittman, Robinson, Shields, Swanson, Underwood and Walsh, Democrats. Opposed were Borah, Brandegee, Johnson, Lodge, Moses, McCormick, Pepper, Wadsworth, Willis, Republicans and Shipstead, Farmer-Laborite. Walsh wanted the defeat reported to the Senate, but he could not overcome the opposition.<sup>72</sup>

While the Committee vote was largely on party lines, it revealed once again the division within the "traditional" progressive ranks that would assume greater importance when the issue would eventually be considered by the Senate as a whole. Of the six progressives on the Foreign Relations Committee, three were "internationalist traditionalists" (Lenroot, Owen and Walsh) who were favorable to the concept of peace-keeping by a carefully limited legal body with Lenroot of the three probably most insistent about reservations to protect American interests. The remaining three were "isolationist traditionalists" (Borah, Johnson and Shipstead) who were opposed to any plan that might lead to political involvement in European affairs.

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<sup>71</sup>Ibid.

<sup>72</sup>Ibid., pp. 1-2; Dennison, The Senate Foreign Relations Committee, p. 116.





Then, after Lodge withdrew his May proposal, the Committee considered the other plan that promised to divorce the Court from the League. The Pepper resolution was adopted by a vote of ten to six. All of the Republican members with the exception of Hiram Johnson voted for it. (Johnson opposed American entry into any world court). The Democrats voting were solidly opposed to the resolution.<sup>73</sup>

Some Senators voted for the resolution merely to get the question before the Senate at long last. Senator Lenroot, for example, explained that he voted for the Pepper Resolution after he had voted for the Swanson Resolution in order to show the world "that the United States approved this World Court, in principle, at least."<sup>74</sup> Republicans who voted for this resolution but opposed the Harding-Hughes proposal could point to the fact that some action had been taken on the issue. Thus they could appear to be backing Coolidge when it came time to campaign for re-election.<sup>75</sup>

Majority and minority reports were written to accompany the resolution with Senator Pepper arguing for the Irreconcilables' position. He claimed that the Pepper plan demonstrated "affirmative and favorable action upon the recommendations of Presidents Harding and

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<sup>73</sup>New York Times, May 25, 1924, p. 1. Not voting were Senators Owen and Shields.

<sup>74</sup>Congressional Record, 69th Cong., 1st sess., January 14, 1926, LXVII, p. 2043.

<sup>75</sup>Fleming, The Treaty Veto of the American Senate, p. 183; Dennison, The Senate Foreign Relations Committee, p. 117; New York Times, May 25, 1925, p. 1.



Coolidge that the United States should adhere to the Court, but not to the League of Nations."<sup>76</sup>

In the rush to adjourn, the Pepper plan became sidetracked in the Senate by lengthy consideration of a child labor amendment to the Constitution. A few days later Congress adjourned just in time for the 1924 political conventions.

## V

The World Court issue did not play the dominant role in the Presidential campaign of 1924 that the League of Nations issue had in the 1920 campaign, but both major parties did endorse the World Court in their platforms. There was nothing vague or equivocal about the Republican plank on the Court as there had been on the League four years before:

The Republican Party reaffirms its stand for agreement among the nations to prevent war and preserve peace. As an important step in this direction we endorse the Permanent Court of International Justice and favor the adherence of the United States to this tribunal as recommended by President Coolidge. This government has definitely refused membership in the league of nations or to assume any obligations under the covenant of the league. On this we stand.<sup>77</sup>

The Republican Party confirmed its conservatism when it chose Coolidge and Charles G. Dawes as its Presidential and Vice-Presidential

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<sup>76</sup>New York Times, May 28, 1924, p. 3.

<sup>77</sup>Kirk H. Porter and Donald Bruce Johnson, comps., National Party Platforms, 1840-1956 (Urbana, Ill.: The University of Illinois Press, 1956), pp. 258-265.





nominees, while progressivism could not make itself heard at the convention. Governor Pinchot of Pennsylvania, the conservationist who had helped T. R. form the Bull Moose Party in 1912, months earlier had given up hopes of winning the Presidential nomination, and Hiram Johnson admitted defeat in May. Borah had earlier in the year indicated that he would accept the Vice-Presidential nomination, but changed his mind after Coolidge considered approaching Frank O. Lowden.<sup>78</sup> Except for securing a few advanced planks regarding child labor and farm prices, the progressive Wisconsin delegation's efforts to secure a more liberal platform failed.

Progressivism within the Democratic Party fared little better than it had in 1920. Factionalism in the party resulted in an inevitable compromise with John W. Davis of West Virginia, a corporation lawyer, being nominated for the Presidency and Charles W. Bryan of Nebraska, a brother of William Jennings Bryan, for Vice-President. Bryan's name on the ticket was meant to appease progressives, but the man heading the slate was generally associated with the House of Morgan.

Progressives were spurred on by the Democratic division and Republican conservatism to take a stand of their own in the national election. LaFollette, through the Conference for Progressive Political Action, called a convention of Progressives for July 2. Others at this convention wanted to build a separate party, but LaFollette argued that

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<sup>78</sup>McCoy, Calvin Coolidge, The Quiet President, p. 246; C. O. Johnson, Borah of Idaho (New York: Longmans, Green and Company, 1936), pp. 300-301.



a third party fight might hurt the progressives who had been elected as Republicans or Democrats and who would be needed if the election were thrown into the House of Representatives. The Convention came around to this view, nominated LaFollette for the Presidency and adopted the platform that he had written.

The Progressive Party of 1924 differed greatly from the Party of 1912. With a membership that ranged from Farmer Laborites and Non-Partisan Leaguers to railroad brotherhood members and Socialists, it no longer held the appeal for the middle class that the earlier progressivism had. Consequently, many Bull Moosers had left the movement. One of the principal aims of the Progressive Party of 1924 was to alleviate the economic problems of the farmer; whereas the platform of 1912 had barely mentioned the farmer until the seventy-second paragraph.<sup>79</sup>

Like the Populists and Grangers before them, the 1924 Progressives were angrier and more practical than were the 1912 Bull Moosers. They wanted to have a say in government in order to pass laws that would benefit themselves--not some other group.

Their platform showed that, like the reform movements of the 1890's, Progressivism in 1924 wanted to "turn the clock back to the good old days of agrarian democracy." In addition to proposing means of remedying the economic ills of the farmer, the platform advocated helping the wage earner through political means. LaFollette's aim was to "destroy the economic and political power of monopoly, which has come

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<sup>79</sup>Schlesinger, The Crisis of the Old Order, 1919-1933, p. 105.





between the people and their government." And his only answer was the old one of restoring competition. He would go along with the Socialists only so far as to advocate public ownership of water power and eventual public ownership of railroads.<sup>80</sup>

Foreign affairs were relegated to last place in the Progressive Party platform. The question of international cooperation presented difficulties for the Progressives. Large numbers of the members from the midwestern and northwestern states particularly were opposed to any political involvement in Europe, while a smaller segment of Eastern intellectuals with support from the New Republic magazine, along with large sections of labor, was pro-League. The leader of the latter group was William H. Johnson, while Senator Henrik Shipstead was generally regarded to be the leader of the isolationist wing. The result was that the League of Nations was not mentioned, but a proposed revision of the Versailles Treaty was included that was actually a repudiation of the League. Planks on outlawing war, abolishing conscription and calling a "public referendum on peace and war" indicated the tenor of progressive thought on foreign affairs.

This largely Populist, traditionalist program made progressivism anachronistic in the twenties. LaFollette was singing the same tune that he had for twenty years. In his campaign he turned his attention over and over again to monopoly. But the country was generally prosperous, and monopoly did not worry people as it had in the early

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<sup>80</sup>Nye, Midwestern Progressive Politics, pp. 344-345; Porter and Bruce, National Party Platforms, 1840-1956, p. 253.





part of the century. The Independent denied that monopoly still existed, and the Outlook said that LaFollette was speaking of another time when "the real struggle in America was between government . . . and its creature the corporation."<sup>81</sup>

This growing prosperity of the country in 1924 was an important factor in the outcome of the election. Industry, except for coal, textiles and railroads, showed increased activity; and even agricultural prices improved in 1924.<sup>82</sup> At the polls the American people expressed their desire for four more years of economic well-being as well as an inactive executive.

Like Harding in 1920, Coolidge won a landslide victory in the electoral college, receiving 382 votes to 136 for Davis and 13 for LaFollette. All of Davis's electoral votes came from the South, and LaFollette beat Davis in seventeen farm belt states. However, LaFollette won only his home state of Wisconsin.

Although the World Court issue did not figure prominently in the campaign as the League had in 1920, the election results might be regarded as an endorsement of American participation since both major parties favored adherence to the Court.

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<sup>81</sup>Nye, Midwestern Progressive Politics, p. 338.

<sup>82</sup>Hicks, Republican Ascendancy, 1921-1933, p. 109; Mayer, The Republican Party, 1954-1964, p. 396.



## CHAPTER IV

### THE TRIUMPH OF THE "TRADITIONAL" PROGRESSIVES, 1925-1926

In spite of the Republican Party's endorsement of the World Court in its platform of 1924, action to enter that body was not to be soon forthcoming. Coolidge lived up to his campaign pledge by urging adherence to the World Court in his message to the lame duck Congress on December 3. However, on this same date Senator Borah succeeded to the chairmanship of the Senate Foreign Relations Committee following the death of Lodge, and he made it quite plain that he would oppose the consideration of the Court during the short session on the grounds that such action would interfere with other important legislation. Although Borah was not the leader that Lodge had been, he was determined to fight the World Court with all of his energy.

A natural "loner," Borah found that his oratory was his most effective weapon. On December 17, he explained his position on the Court: It must be a world court with no connections to international political institutions, and it must operate with a code of international law, not force. His plan for world peace called for outlawing war, but first there must be a body of international law. Then an independent judicial tribunal would be established that would declare war a crime.<sup>1</sup>

Although new resolutions calling for entering the Court were introduced into the Senate and referred to the Foreign Relations

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<sup>1</sup>New York Times, December 18, 1924, p. 3.





Committee, they were not acted upon. The Pepper Resolution had been placed on the Senate Calendar, but when it was reached on February 28, it was quickly put aside, and the sixty-eighth Congress adjourned with nothing on the Court having been accomplished.

President in his own right on March 4, Coolidge chose for Secretary of State to replace Hughes, who resigned, Frank B. Kellogg, formerly a conservative Republican Senator from Minnesota and ambassador to Great Britain. Kellogg had been a reservationist on the League. Realizing that this issue was dead, "a cautious interest in the World Court was as far as he could safely go toward the League, even had he desired to go farther, which is doubtful."<sup>2</sup>

Secretary Kellogg made a strong bid for adherence to the World Court on April 25 in a speech before the Society of International Law. Reminding his audience that America had led in efforts to establish a court of arbitration at the Hague, he expressed the hope that within a few years all questions that had previously led to war would be settled by judicial methods.<sup>3</sup>

The President himself continued to follow the policy laid down by Harding and Hughes regarding international cooperation. In his inaugural address Coolidge again urged that the Senate take action to bring the United States into the World Court on the basis of the

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<sup>2</sup>Robert H. Ferrell, Frank B. Kellogg--Henry L. Stimson Vol. XI of The American Secretaries of State and Their Diplomacy, ed. by Robert H. Ferrell (New York: Cooper Square Publishers, Inc., 1963), p. 91.

<sup>3</sup>New York Times, April 26, 1925, p. 1.



Harding-Hughes proposal. But this time he was more positive and frank about the delaying tactics that had been employed by the Foreign Relations Committee for so long:

. . . we have long advocated the peaceful settlement of disputes by methods of arbitration and have negotiated many treaties to secure that result. The same considerations should lead to our adherence to the Permanent Court of International Justice. Where great principles are involved, where great movements are under way which promise much for the welfare of humanity by reason of the very fact that many other nations have given such movements their actual support, we ought not to withhold our own sanction because of any small and unessential difference, but only upon the ground of the most important and compelling fundamental reasons. We cannot barter away our independence or our sovereignty, but we ought to engage in no refinement of logic, no sophistries, and no subterfuges to argue away the undoubted duty of this country . . . to bear its full share of the responsibility of a candid and disinterested attempt at the establishment of a tribunal for the administration of even-handed justice between nation and nation.<sup>4</sup>

On the day following Coolidge's address, Senator Swanson reintroduced his resolution into the Senate. The Senate Foreign Relations Committee to which this resolution was referred had undergone further changes with the organization of the new Congress. On the Republican side, progressive Arthur Capper of Kansas and William Butler of Massachusetts replaced McCormick and Wadsworth, and Democrats James Reed of Missouri and Pat Harrison of Mississippi were selected in place of Shields and Owen. Reed was an Irreconcilable on the Court as he had been on the League.

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<sup>4</sup>Congressional Record, 69th Cong., 1st sess., March 4, 1925, LXVII, p. 5.





In the Senate itself there were now fifty Republicans, forty Democrats and six irregulars who had backed LaFollette in the 1924 election campaign. The regular Republicans moved swiftly to punish the renegades. Following the election, LaFollette, Edwin F. Ladd and Lynn J. Frazier of North Dakota and Smith W. Brookhart of Iowa were expelled from the Republican party caucus. When Congress convened in December, the four Senators were deprived of their seniority on committees.

There were still about twenty Senators who could be called progressives. Some like Albert B. Cummins had become less progressive, and some like Charles L. McNary of Oregon and Peter Norbeck of South Dakota were only moderate mavericks. In addition, Capper, Couzens, Borah, Brookhart, Dill, Frazier, Hiram Johnson, LaFollette, Lenroot, Ladd, McKellar, Norris, Sheppard, Shipstead, Walsh and Wheeler were still in the Senate. Dill, McKellar, Sheppard, Walsh and Wheeler were elected as Democrats, Shipstead as a Farmer-Laborite and the rest as Republicans.

Both LaFollette and Ladd were to die in June, 1925. LaFollette's son Robert, Jr. would take his place and Gerald P. Nye would replace Ladd. LaFollette's passing, as Russell B. Nye has written, "cut the heart out of the Progressive party," for he was "the last symbol of the old tradition."<sup>5</sup>

But progressives in the Senate were still irritating to the Republican party, and they "still held the balance of power between the

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<sup>5</sup>Nye, Midwestern Progressive Politics, p. 347.





conservative Democrats and the regular Republicans."<sup>6</sup> Mostly Republicans, they were still unbound by party loyalty. Coolidge had earlier called in Borah for conferences, and he was socially friendly with Capper. He did not quarrel with any of these mavericks personally, but neither could he win them over.<sup>7</sup>

Borah was the most formidable and independent fighter of them all when it came to what he saw as protecting the United States from political entanglement in Europe. When many Senators expressed the hope that the Swanson Resolution would be voted on in the special session, Borah replied that he doubted if there would be time to secure action on it. Although the Resolution had been referred to the Senate Foreign Relations Committee at the beginning of the session, Borah simply failed to call a meeting of the Committee during the session.<sup>8</sup>

An attempt to secure a unanimous consent decision whereby the resolution could be debated was blocked on March 13 by the progressive Senator Dill who later would identify himself as "one of a small band of men in the Senate" opposed to the Swanson Resolution. The Senate then employed an unusual method to discharge the resolution from the Committee. By a vote of seventy-seven to two the Senate agreed to take

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<sup>6</sup>William Allen White, A Puritan in Babylon (New York: The Macmillan Company, 1939), p. 318.

<sup>7</sup>Ibid.

<sup>8</sup>Eleanor E. Dennison, The Senate Foreign Relations Committee, p. 120.



up the Swanson Resolution on December 17, 1925. Dissenting were Dill and Norbeck, both progressives.<sup>9</sup>

## II

The nine-month period prior to consideration of adherence to the World Court Protocol proved to be a time for Senators and the American people generally to express themselves on the issue. The Court's most enthusiastic enemy Senator Borah soon revealed in a series of speeches his five main objections to the Court: (1) The League and the Court were remnants of "old world imperialism," (2) this Court was tied to the League which could enforce its decisions, (3) the decisions of the Court thus rested on material force, not on legal and moral grounds as they should, (4) the World Court would not be a potent agency for peace because it could not enforce its own decisions and (5) because of the right of the League to ask the Court for advisory opinions, the Court would be giving opinions on "quasi-political matters" in which the United States should not become involved.<sup>10</sup>

Borah's objections typified the ideology of the "traditional" Populist-progressive. All of them hinged upon the possibility of the United States becoming politically involved in a corrupt Europe through the League of Nations. The old Populist fear of an international

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<sup>9</sup>Congressional Record, 69th Cong., 1st sess., March 13, 1925, LXVII, p. 207, January 14, 1926, p. 2024.

<sup>10</sup>McKenna, Borah, pp. 224-225.





"conspiracy" by "the gold gamblers of Europe and America" was behind the charge of "old world imperialism." It dated back to the preamble to the People's Party platform of 1892 and a Populist Manifesto of 1895 which stated that "every device of treachery, every resource of statecraft . . . are being made use of to deal a blow to the prosperity of the people and the financial and commercial independence of the country."<sup>11</sup>

In addition, the objections raised by Borah reflected elements of the "internationalist traditionalist" progressive approach to the problem of world peace. It was an idealistic, moralistic and legalistic view. Borah said he did not want the Court already in existence but a different one based on a body of law already developed and on moral, not forceful, principles. Thus Borah's stands on foreign affairs often seem ambiguous because he at times aligned himself with the "international traditionalist" progressives and at other times with the "isolationist traditionalists" who opposed all "meddling" in Europe. Borah often professed an interest in world cooperation if it could be based on a moralistic and legalistic basis. But in the case of the Court, he stood firmly with the "isolationist traditionalists" because he believed this Court would not meet these very idealistic requirements.

In Philadelphia on March 20 Borah vowed that he would use all of his influence against American entry into "a court dominated by the

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<sup>11</sup>Hofstadter, The Age of Reform, p. 74.



foreign offices of Europe."<sup>12</sup>

Later, in Bridgeport Connecticut, the Idaho Senator declared that he opposed the World Court because a body of international law must be set up before a world court is established; otherwise "it would be a tribunal controlled through power of politics, not of law."<sup>13</sup> And on May 11 Borah spoke in Boston where he emphasized his objections to the Court on the grounds that because the Court counseled and advised the League, membership in it would involve the United States in the League and hence in European politics. He argued that the reservations proposed would not sufficiently safeguard America and that only a change in the Court Statute which would sever all connections between the Court and the League would suffice."<sup>14</sup>

Striking out at the Court as a vestige of old world imperialism in a speech at the University of Michigan on May 18, Borah censured the Court and the League for having force as their fundamental principle. His desire, he said, was "to see war considered a crime."<sup>15</sup> And in his home state in July, Borah assured his constituents that he had long favored a world court, but he warned that the one in existence was dangerous. The method of electing judges to the court, he said, was

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<sup>12</sup>New York Times, March 21, 1925, p. 17.

<sup>13</sup>Ibid., April 3, 1925, p. 1.

<sup>14</sup>Ibid., May 13, 1925, pp. 1, 6.

<sup>15</sup>Ibid., May 19, 1925, p. 1.





"practically judicial despotism."<sup>16</sup>

Arriving back in Washington in September, Borah would only say that his views on the Court had not changed but that he would be willing to consider the question of adherence when it came before the Senate. A meeting with Coolidge in September found Borah still at odds with the President and expressing the belief that public opinion favoring the Court had not increased but had in fact diminished.<sup>17</sup>

Other Senators also made their views known throughout the summer. Senator Lenroot, now favoring the Administration's proposal, predicted in August that the Harding-Hughes-Coolidge plan would pass the Senate with seventy-five votes in favor. The only danger, he said, was in the possibility of compromise on reservations. The opposition might delude the proponents into believing that only compromise could save the Court. Then they would hope that the Democrats would vote against the proposal giving them their victory.<sup>18</sup> This would be the story of the fight against the League of Nations all over again.

Senator Capper, who also favored adherence under the Harding-Hughes-Coolidge proposal, expressed his confidence while on his way to Geneva to study the League of Nations organization that the Senate would vote for the plan.<sup>19</sup> And the progressive Senator McKellar, Democrat of

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<sup>16</sup>Ibid., July 31, 1925, p. 15.

<sup>17</sup>Ibid., September 15, 1925, p. 27, September 17, 1925, p. 4.

<sup>18</sup>Ibid., August 5, 1925, p. 4.

<sup>19</sup>Ibid., August 24, 1925, p. 12.





Tennessee, predicted that 90 per cent of the Senators would vote for the Harding-Hughes proposal if it were not so changed as to alter its spirit.<sup>20</sup>

Senator Moses, who had been an Irreconcilable on the League, indicated that some of the intransigents were giving ground. After conferring with Coolidge on August 11, he announced his belief that the United States would agree to join the Court with reservations. He felt that the Protocol would be "radically amended" but that the other members would want the United States to join so badly that they would accept the Senate's conditions.<sup>21</sup> However, Senator James A. Reed, the Democratic Irreconcilable, urged his party to fight the World Court proposal of the Administration saying that to turn down the League and accept the Court was absurd since the Court was created by the League.<sup>22</sup>

Despite divergent opinion, it seemed fairly obvious that a majority of Congressmen favored the World Court proposal. On March 3 the House of Representatives expressed its desire for adherence to the Protocol by a vote of 301-328, and a straw ballot taken among the Senators completed in July and reported by the New York Times showed that the Harding-Hughes plan would pass the Senate by a majority of six if brought to a vote.<sup>23</sup> W. W. Jermaine, Washington correspondent of the

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<sup>20</sup>Ibid., August 11, 1925, pp. 1, 4.

<sup>21</sup>Ibid.

<sup>22</sup>Ibid., August 13, 1925, p. 9.

<sup>23</sup>Ibid., March 4, 1925, p. 1, July 30, 1925, p. 3. Coolidge was encouraged by the poll, but Senator Curtis, Republican floor leader in the Senate, denied that a poll was taken saying that the Senators were too widely scattered to make a poll possible.



Seattle Times, quoted a poll that showed that out of sixty-four Senators questioned, fifty-five favored the Court, and he reported that at least nine others could be counted on to vote for the resolution. With an election coming up the following year and with Republican Senators whose reelection was doubtful looking to the President for support, many agreed with a newspaper reporter who wrote that for a Senator "to turn down the World Court proposal would be regarded . . . as political suicide."<sup>24</sup>

The Nation polled the members of the Senate Foreign Relations Committee for their views on American participation in the World Court. The magazine questioned whether the Court could be an instrument of peace if it were backed by power. Believing that Articles 13 and 16 of the Covenant of the League enabled that body to enforce Court decisions, the Nation proposed a further reservation--one declaring that "efficacy of decisions of the Court rests solely upon the sense of international honor and obligation of the litigant sovereign nations and not on military force or economic pressure."<sup>25</sup>

The Senators were asked if they believed if such a reservation were essential to United States adherence. Ten replies were published to show the wide variety of opinion regarding the Court among the members of the Committee. There were answers from Lenroot, Pepper, Borah, Moses,

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<sup>24</sup>"Rosier Prospects for the World Court," Literary Digest, LXXXVI (September 5, 1925), pp. 9-11.

<sup>25</sup>"Ten Senators on the World Court," Nation, CXXI (December 30, 1925), p. 751.







Edge, Willis, McLean, Shipstead, Capper and Walsh. Of the ten, six replied that the Nation's proposed reservation was unnecessary; three believed that it was needed, and one thought force might be necessary but that it should not be used under the auspices of the League.<sup>26</sup>

Of these ten Senators, Borah, Capper, Lenroot, Shipstead, and Walsh could be considered progressives. Borah and Shipstead believed that this further safeguard against the League and the use of sanctions to enforce World Court decisions was warranted. To Borah the League was the threat against which he had to be constantly on guard. Shipstead, a progressive of the isolationist-traditionalist strain, believed that "the power to enforce the decisions of the Court by war is . . . vested in the League of Nations by the treaty called the Covenant. Thus we have a clear program for inaugurating all kinds of 'legal wars' on the assumption that the wars under this arrangement will be 'legal' and under the further assumption that wars in the past have been 'illegal.'"<sup>27</sup>

Capper, a moderate "internationalist traditonalist," believed that the reservations of the Harding-Hughes-Coolidge plan would provide sufficient protection from the League. Lenroot also thought that the Nation's reservation was not necessary commenting, "Our reservations have nothing whatever to do with the League of Nations, and we do not propose to deal with it in any form."<sup>28</sup>

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<sup>26</sup>Ibid., pp. 751-752.

<sup>27</sup>Ibid.

<sup>28</sup>Ibid., p. 751.



Walsh positively opposed such a reservation on the grounds that "the statute itself . . . makes no provision whatever for the enforcement of the judgments of the court either by peaceful or warlike means." He conceded that certain League member nations might be embarrassed by decisions of the Court, but the only way to change this would be to change the Covenant. Walsh then accused the Nation of wanting no court since it was obvious, he said, that the League members would not agree to removing the "sanctions" provision in the Covenant.<sup>29</sup>

In addition to the apparently favorable attitude of a majority of Congressmen toward the World Court proposal, public opinion in general appeared to support it in 1925. Walter Lippmann, still an editor on the New Republic, favored entering the Court on the basis of the Harding-Hughes reservations. In January, 1926, he wrote that the judges were independent of the League and that the League could not force the Court to give advisory opinions. Adding a note of realism that was becoming more and more rare in this decade, Lippmann said in reply to the charge that the United States would be obligated to back up decisions of the Court by force:

If we went to war against what is called a Covenant-breaking state it would not be because we belonged to the World Court but because we belonged to the world.

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<sup>29</sup>Ibid. Actually, the Nation's position on the Court and on peace-keeping in general during this period was much like Borah's. By February, 1926 it favored a court that would have obligatory jurisdiction depending only on moral suasion, that would be completely independent of the League and that would not be called on for advisory opinions by the League. See "Is the World Court an Agency for Peace?" Nation, CXII (February 3, 1926), p. 104.





We should be drawn in whether we had commitments or not, just as we were drawn in . . . in 1917. . . .<sup>30</sup>

The Outlook, a relatively conservative popular magazine, urged entry into the Court but cautioned against expecting too much of the body. "It is not a substitute for war. It is a means for determining and supporting legal rights. . . ." The magazine also argued that the World Court should be supported because it offered an advantage not supplied by the Hague Tribunal. The difference, it said, was a question of law, a difference between a legal decision which establishes a legal right and an arbitral award which is a way of reaching a compromise.<sup>31</sup>

Newspapers generally favored adherence. The American Foundation surveyed the press and found that of 1,042 leading daily papers, 865, or 83 per cent, wanted the country to join the World Court. The Literary Digest found from its study of editorial pages of newspapers that "an undoubted majority [were] in favor of the World Court." The Hearst papers, the New York Sun, the Kansas City Star, the Chicago Tribune and the Washington Post were among those opposed. These papers based their objections mainly on the belief that adherence would be tantamount to the United States' being taken into the League via the "back door." Some of these papers, however, took the stand that

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<sup>30</sup>Walter Lippmann, "A Reply to Mr. Hard," Nation, CXII (January 20, 1926), pp. 60-61.

<sup>31</sup>"War and the Law," Outlook, CXLI (December 30, 1925), p. 659; "When a Court Is Not a Court," Outlook CXLII (January 20, 1926), pp. 98-99.





entering the Court was too small a step and that it was merely a cover-up for the failure of the United States to join the League of Nations.<sup>32</sup>

A good number of national organizations went on record in favor of the Court. Speaking for their organizations at the sub-committee hearing held on April 30 and May 1, 1924, had been representatives from the United States Chamber of Commerce, the American Bar Association, the American Federation of Labor, the American Federation of Teachers, the Parent-Teachers Association, the Foreign Policy Association, the National Association of Manufacturers and numerous peace organizations.<sup>33</sup>

Women's organizations were prominent among those groups that favored adherence. These included the American Association of University Women, the General Federation of Women's Clubs, the National League of Women Voters, the National Council of Women, the Women's Temperance Union, the National Federation of Business and Professional Women's Clubs, the National Congress of Mothers and Parent-Teachers Association and the National Council of Jewish Women.<sup>34</sup>

Church groups that officially backed United States entry included the Federal Council of Churches of Christ, the Presbyterian

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<sup>32</sup>New York Times, December 13, 1925, XX, p. 3; "To End War, Do It Now," Literary Digest, LXXXIV (February 14, 1925), pp. 12-13.

<sup>33</sup>New York Times, May 11, 1923, p. 8, May 1, 1924, p. 1; Coolidge Papers, Letter from Esther Everett Lape to Edward Clark (Secretary to the President), September 18, 1925.

<sup>34</sup>Coolidge Papers, Letter from Esther Everett Lape to Edward Clark, September 18, 1925; New York Times, October 18, 1925, II, p. 6, April 15, 1923, p. 2, May 10, 1923, p. 9, May 17, 1923, p. 8.



General Assembly, the National Council of Congregational Churches, the General Conference of the Methodist Episcopal Church, the Northern Baptist Convention, the American Unitarian Association, the General Conference of Friends, the United Presbyterian Church of North America and many lesser religious groups.<sup>35</sup>

In addition, fifteen state fraternal bodies and a great number of business and professional organizations supported the Court. On October 18, 1925, the American Foundation released a statement listing fifty business and professional bodies that advocated entry.<sup>36</sup>

The organized opposition to the Court came mainly from the Ku Klux Klan which opposed entering the World Court on the grounds that it was a "back door" to the League, that the United States' policy of immigration would be jeopardized and that the Vatican would use the Court as a means to "romanize" America and force Catholics into the country. The Irish Catholics evidently had no such plan or desire since their newspapers attacked the Court as being dominated by England.<sup>37</sup>

Other opponents were busy magnifying the dangers of the advisory function of the World Court by charging that this function would result in political involvement in Europe. The isolationists were aided in

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<sup>35</sup>New York Times, October 18, 1925, II, p. 6, November 23, 1925, p. 16; Coolidge Papers, Letter from W. L. Darby, Executive Secretary of the Washington Federation of Churches to C. Bascon Slemph (Secretary to President Coolidge), November 21, 1924.

<sup>36</sup>New York Times, October 18, 1925, II, p. 61.

<sup>37</sup>Ibid., August 13, 1925, p. 9, December 13, XX, p. 3.







their fight by none other than John Bassett Moore, the American judge on the Court. In April, 1923, the Court had set a precedent in refusing to give an advisory opinion requested by the League Council in the Eastern Karelia dispute between Finland and Soviet Russia. The Court declined because Russia had not consented. In addition, it decided that advisory opinions could be given only in open court. Moore, however, was not satisfied with these rules that had been laid down by a seven to four decision of the judges. He wanted to make them permanent by writing a reservation to the Protocol to which members would agree. Moore believed that the giving of advisory opinions was not a proper function of the Court, that doing so would cut down on its judicial work and delay the development of a body of international law and that being required to give opinions which could be either accepted or rejected was not in keeping with the character of the World Court.<sup>40</sup>

### III

President Coolidge knew that the advisory opinion function of the Court would be the main focus of attack when the date set to

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<sup>40</sup>Pusey, Charles Evans Hughes, II, p. 602; Fleming, The United States and the World Court, p. 54. During the summer of 1925, Professor Manley O. Hudson of the Harvard Law School was writing articles for magazines and newspapers in which he defended the Court and specifically its advisory opinion function. He pointed out that many national courts in the world performed this task and that it was important to the handling of disputes by the League "so long as states are reluctant to cast their problems in terms of legal solecisms. . . ." See New York Times, August 13, 1925, p. 9, December 13, 1925, XX, p. 3.



consider the Swanson Resolution finally arrived, and he referred to it at some length in his annual message to Congress in December, 1925:

It does not seem that the authority to give advisory opinions interferes with the independence of the Court. Advisory opinions in and of themselves are not harmful, but may be used in such a way as to be very beneficial because they undertake to prevent injury rather than merely afford a remedy after the injury has been done. As a principle that only implies that the Court shall function when proper application is made to it. Deciding the question involved upon issues submitted for an advisory opinion does not differ materially from deciding the question involved upon issues submitted by contending parties. Up to the present time the Court has given an advisory opinion when it judged it had jurisdiction and refused to give one when it judged it did not have jurisdiction. Nothing in the work of the Court has yet been an indication that this is an impairment of its independence or that its practice differs materially from the giving of like opinions under the authority of the constitutions of several of our states.

No provision of the statute seems to me to give this Court any authority to be a political rather than a judicial court. We have brought cases in this country before courts which, when they have been adjudged to be political, have been thereby dismissed. It is not improbable that political questions will be submitted to this Court, but again up to the present time the Court has refused to pass on political questions and our support will undoubtedly have a tendency to strengthen it in that refusal.<sup>41</sup>

It had been the President's position since taking office upon Harding's death that the matter of the Court was in the hands of the Congress.<sup>42</sup> While Coolidge would not take a position on any of the

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<sup>41</sup>Israel, The State of the Union Messages of the Presidents, 1790-1966, III, p. 2676.

<sup>42</sup>Coolidge Papers, Memorandum from Harriet Taylor Upton to C. Bascom Sless, November 26, 1923; letter from Everett Sanders to Mrs. Herbert Knox Smith, April 10, 1924.





compromise plans being offered in the summer of 1925, it was understood that he would favor any method of adherence so long as the United States would not assume any responsibilities for the League of Nations and so long as the United States would have a voice in the election of judges. It was also understood that the President was concerned that the Court should define its power in giving advisory opinions.<sup>43</sup>

The responsibility for gaining adherence to the Court devolved upon Senator Swanson, a Democrat, now that the question was out of the hands of the Senate Foreign Relations Committee. On the majority side, the leadership went to Senator Lenroot, fourth ranking Republican on the Foreign Relations Committee, while Senator Borah led the opponents of the Court. Thus leadership on both sides of the issue was in progressive hands.

Beginning the debate on the resolution was its sponsor Senator Swanson who gave a long speech in which he answered all of the common objections to the Court. Defending the advisory opinion function even though the fifth reservation had been added to the resolution he was defending, he cited Canada, England, Columbia, Panama, Massachusetts, New Hampshire, Maine, Rhode Island, Tennessee, South Dakota, Colorado, Delaware, Alabama and Oklahoma as countries and states where the practice was common. He reminded the Senators that the opinions were not binding and that they could not affect the United States unless it were a "party to the request for such an opinion."<sup>44</sup>

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<sup>43</sup>New York Times, August 3, 1925, p. 2.

<sup>44</sup>Congressional Record, 69th Cong., 1st sess., December 17, 1925, LXVII, p. 974.





Senator Lenroot, speaking in favor of the Court, argued that not only would the United States not be bound by any advisory opinion but none could be given where United States interests and rights were at stake, and he read from the Eastern Karelia decision to back up his statement. Lenroot called joining the Court a "step in the direction of peace. . . ." <sup>45</sup>

During the debate Senator Walsh also spoke for the advisory opinion function. He explained that much misunderstanding had prevailed regarding the Tunis and Morocco case in which the first advisory opinion had been given. The League Council at the request of both disputants (France and Great Britain) had asked the Court to give an opinion as to whether the imposition of French citizenship and consequent military service on residents of Tunis and Morocco who claimed to be British subjects was a domestic or international question. The Court had replied that although ordinarily nationality would be a domestic question only, in this case it could assume an international character because of treaty arrangements. Walsh said that this incident had been interpreted incorrectly by opponents of the Court to mean that the Court had set a precedent that the questions of immigration and nationality are of international concern. <sup>46</sup>

Walsh also answered the argument that the Monroe Doctrine might be endangered by the entrance of the United States into the World Court

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<sup>45</sup> Ibid., December 18, 1925, pp. 1068-1070.

<sup>46</sup> Ibid., December 21, 1925, p. 1242.



by saying that "if the United States should become involved in a controversy with another nation, a feature of which was the Monroe Doctrine," the United States would remain "at perfect liberty to submit or not to submit the dispute to the Court. . . ." Continued Walsh, "It is not so much the fate of the Monroe Doctrine they fear as an increase in the prestige of the League of Nations."<sup>47</sup>

Following this speech by Walsh, Senator George Wharton Pepper offered a suggestion for changing Reservation No. 5 to comprise Moore's ideas on advisory opinions. These extremely cautious additions that later grew into an amendment to Reservation No. 5 stipulated that the United States should declare that the permanent policy of the Court was to give no secret opinions and that an explicit statement should declare the decision of the Court in the Eastern Karelia case to be permanent policy. They also stated that the United States should announce that it would not be bound by any advisory opinion given on any question not submitted by it and that the United States should ask signatories to agree that no advisory opinion would be given on any matter affecting the United States unless its consent had first been given to the Court.

Senator Williams of Mississippi argued that the fifth reservation was not adequate to protect the "dignity, independence and equality of the United States. . . ." While it provided that the United States would not be bound by an advisory opinion not rendered pursuant to its own request, he said, it did not provide that the Court should

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<sup>47</sup>Ibid.





give no advisory opinion which in any way affects the United States "unless the United States shall have consented. . . ." Williams cautioned that since the United States had no seat on the League of Nations Council where all advisory opinion requests of the Court originated, his country would not have equality with the other nations who were members of the League.<sup>48</sup>

Senator Borah took up this point of equality in the debate and expressed his concern that Great Britain or one of the other Council members might try to control the Court. The leading nations would decide which opinions would be submitted and Great Britain, he said, would have "seven votes to our one in the selection of judges." Borah referred to President Harding's St. Louis speech in which Harding had cited as an "indispensable prerequisite" that the United States have absolute equality with other powers.<sup>49</sup>

In addition, Borah reminded the Senate that Harding had decided by the time he gave this speech that the Hughes reservations were inadequate. Harding had emphasized, declared Borah, that before the United States entered the Court it must be so constituted as to be "in theory and in practice . . . a world court and not a league court." Borah argued that the Court was dependent upon the League and maintained that its framers intended it to be so. Quoting from a book written by Judge de Bustamante who was then a member of the Court,

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<sup>48</sup>Ibid., January 9, 1926, p. 1757.

<sup>49</sup>Ibid., January 14, 1926, p. 2037.



Borah tried to show that the Court cannot "disregard the Covenant--that it is binding upon the Court and mandatory." His point referred to a semantic interpretation of Article 14 which in the French provided that the Court "will give" an advisory opinion, while in English it read "may give," but the option is with the League, not the Court, said Borah. And he presented his usual argument that force, which would be required under League sanctions, would never keep the peace but would always cause tyranny or war.<sup>50</sup>

Senator Walsh of Montana countered with the reply that concern over the sanctions prescribed by the Covenant were irrelevant to the debate. "Those sanctions apply only . . . to the members," he said, "and they apply just exactly as well . . . to the decisions made by the Permanent Court of Arbitration, to which we are a subscribing nation, as to the judgments of the Permanent Court of International Justice." Walsh was not concerned with whether the Court was an organ of the League but only whether it was a body to which "international controversies may be safely intrusted . . . for determination."<sup>51</sup>

This "back door to the League" argument received a great deal of emphasis in the Senate debate. Hiram Johnson also objected to the resolution on this basis saying that since it would lead to membership in the League, entry into the World Court would mean an end to a 140-year American policy of non-intervention in European political life.

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<sup>50</sup> Ibid., December 18, 1925, pp. 1071-1073, January 22, 1926, pp. 2555-2561.

<sup>51</sup> Ibid., December 18, 1925, pp. 1084-1085.





Echoing Borah, he declared that if the sanctions of the League backed up the Court's decisions, it would mean war, not peace.<sup>52</sup>

Also speaking against the Court because of its League connection was Robert A. LaFollette, Jr. of Wisconsin. Following the tradition of his late father, he warned that membership in the Court would be tantamount to membership in the League and that decisions of the Court would be enforced by law under the League sanctions. The League and Court, declared LaFollette, were tools of imperialism.<sup>53</sup>

This charge of imperialism recalled the old Populist cry of a gold conspiracy. Senator Johnson in his typically "traditionalist progressive" manner blamed the East and especially New York and its profit seekers for letting loose "a maelstrom of propaganda . . . poured forth in a constant and continuous flood." To him the whole matter was a case of the old, hated moneyed interests seeking trade.<sup>54</sup>

Following in the same tradition was Senator Nye of North Dakota. Sworn in only eleven days earlier to serve out the term of Senator Ladd, Nye in a bid for Non-Partisan League support in the upcoming election, charged that "the World Court is being forced upon our nation . . . by men who are the makers of war, the international bankers."<sup>55</sup>

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<sup>52</sup>Ibid., January 19, 1926, p. 2349.

<sup>53</sup>Ibid., January 22, 1926, pp. 2568, 2575-2577.

<sup>54</sup>Ibid., January 19, 1926, pp. 2349-2350.

<sup>55</sup>Ibid., January 23, 1926, pp. 2643-2647; Wayne S. Cole, Senator Gerald P. Nye and American Foreign Relations (Minneapolis: The University of Minnesota Press, 1962), pp. 45, 61.





Another midwestern progressive with a Populist background, Senator Brookhart was typically concerned with the plight of the farmer. He spoke against entry into the Court during the Senate debate; but unlike many of his fellow progressives, he was not concerned with the Court's relation to the League. Rather, he wanted to see a system of "cooperative economics" instituted in the world, and he thought such a court could not be an effective agent for such a task. Brookhart responded in terms of the old "traditionalist" progressive fear that some great combination directed the economy of the country and the world threatening the survival of the small businessman and the farmer.

These foreign conspirators should not be allowed to direct the affairs of the United States. Johnson said he refused to allow foreign judges to decide the fate of his country,<sup>56</sup> and Senator Fernald of Maine, an Irreconcilable and a conservative Republican, tried to win rejection of the resolution by asking if the Senators would want their country to enter a court that had "judges ten of whose names Americans could not even pronounce."<sup>57</sup>

Opponents of the Harding-Hughes plan were again employing their tactic of delay. A filibuster had been in progress since January 15. Developed by Senators Cole Blease of South Carolina and James A. Reed of Missouri, the plan was to take up so much of the Senate's time that

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<sup>56</sup>Congressional Record, 69th Cong., 1st sess., January 19, 1926, LXVII, p. 974.

<sup>57</sup>Ibid., January 15, 1926, pp. 2103, 2105.



there would be barely time to pass a tax reduction bill that was needed before the session ended.<sup>58</sup>

In a move to prevent another victory for the Irreconcilables, proponents of the Court proposal decided upon a tactical maneuver. On January 23, a reading of the Swanson Resolution revealed that Reservation No. 5 had been modified in accordance with the recommendations made by John Bassett Moore and supported by Senator Borah.<sup>59</sup> The original fifth reservation had aimed to head off possible threats to national sovereignty arising from the advisory opinion function and had stemmed from fears that the Monroe Doctrine would be endangered and that the Court could conceivably consider such matters as the United States tariff policy, immigration, European war debts and the repudiated debts of some of the Southern states. Then Judge Moore had argued that further stiffening was needed. Hoping to head off all possible objections to adherence, Senators Swanson and Walsh had agreed to change the fifth reservation to require

that the Court shall not render any advisory opinion except publicly, after due notice to all states adhering to the Court and to all interested states, and after public hearing or opportunity for hearing given to any state concerned; nor shall it without the consent of the United States entertain any request for an advisory opinion touching any dispute

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<sup>58</sup>G. L. Grassmuck, Sectional Biases in Congress on Foreign Policy (Baltimore: Johns Hopkins Press, 1951), pp. 79-80.

<sup>59</sup>Fleming, The United States and the World Court, p. 61. Senator Borah had inserted into the Congressional Record a memorandum written by Moore which outlined Moore's stand on advisory opinions.







or question in which the United States has or claims an interest.<sup>60</sup>

But the Irreconcilables were not so easily appeased. Senators Blease and Borah offered more reservations. Blease's required that in electing judges the United States would have a vote for each of its forty-eight states in the League of Nations Assembly in order to be equal to Great Britain. Borah's reservation provided that Great Britain would have only one vote in the Assembly and the Council. In addition to the provisions of the revised fifth reservation, it stated that the United States disclaimed all responsibility for decisions to which it was not a party.<sup>61</sup>

Senator Moses offered the Pepper Plan again, and Senator Overman of North Carolina presented a reservation contingent upon the failure of the Swanson Resolution. It would have barred the Court from taking up without the consent of the United States "the question of the alleged indebtedness or moneyed obligation of any state of the United States."<sup>62</sup>

Still trying to delay the vote, the Irreconcilable Senator Reed suggested asking the Secretary of State to send to the Senate the "original correspondence relative to the protocol . . . and all original documents relating to such protocol or the statute of adhesion of the United States thereto." When asked by Lenroot why he had not asked for

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<sup>60</sup>Congressional Record, 69th Cong., 1st sess., January 23, 1926, LXVII, p. 2657.

<sup>61</sup>Ibid., p. 2657.

<sup>62</sup>Ibid., p. 2658.



these papers the previous March, Reed replied that was "utterly immaterial," and he complained bitterly of the attempt to shut off debate.<sup>63</sup>

As closure of debate became imminent, more reservations were offered by Senators Reed, Frazier, Moses, Shipstead and Williams. Reed's reservation would have given the British Empire only one vote in electing judges, and Moses wanted to deny the right to use force to effect any decision of the Court. The other reservations would have in various ways provided even further protection against every conceivable infringement upon United States equality with other nations, sovereignty and independence from European political affairs.<sup>64</sup>

Senator Lenroot of Wisconsin on January 22 had introduced a petition for cloture that was signed by forty-eight Senators. Included among the signers were seven "international traditionalist" progressives: Capper, Couzens, Cummins, Lenroot, McKellar, Sheppard and Walsh. The vote on closure of debate was taken on January 25, passing sixty-eight to twenty-six. Opposed were progressives Borah, Brookhart, Dill, Frazier, Johnson, LaFollette, Norris, Nye, Shipstead and Wheeler. Voting "yes" were Capper, Couzens, Cummins, Lenroot, McKellar, McNary, Norbeck, Sheppard and Walsh.<sup>65</sup> With only four votes to spare on this vote, the significance of the solidarity of the progressive blocs seems clear. The leadership of the "internationalist traditionalists" had

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<sup>63</sup>Ibid., pp. 2661-2662, 2665-2666.

<sup>64</sup>Ibid., January 25, 1926, pp. 2676-2678.

<sup>65</sup>Ibid., pp. 2678-2679.





succeeded in salvaging a project which the nature of their own objectives and the influence of the "isolationist traditionalists" had stripped of meaning.

On the following day the official reservations came to a vote with all of them carrying by large majorities: Reservation No. 1--ninety to one; Reservation No. 2--eighty-three to eight; Reservation No. 3--eighty-nine to three; Reservation No. 4--ninety-one to one; Reservation No. 5--ninety-one to one. The other reservations were voted down easily. The Reed reservation lost seventy-three to twenty; the Moses reservation failed sixty-nine to twenty-two and the Pepper Plan lost seventy-two to twenty-one.<sup>66</sup>

Final action on the Swanson Resolution was taken on January 27, almost three years after the Harding-Hughes proposal was first made. The Senate approved the measure by a vote of seventy-six to seventeen.<sup>67</sup> The large majority in favor of the plan confirmed what was predicted in the earlier vote on the reservations: only those who were absolutely irreconcilable voted against the measure; the reservations had made it acceptable to everyone else.

The vote also illustrated once again the division of the "traditional" progressives into two camps: the "isolationists" and the "internationalists." The list of progressives who voted "no" immediately calls up the old Populist image of progressivism: Borah,

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<sup>66</sup>Ibid., January 27, 1926, pp. 2816, 2820-2821.

<sup>67</sup>Ibid., p. 2825.



Brookhart, Frazier, Johnson, LaFollette, Nye and Shipstead. Voting for the measure were Capper, Couzens, Cummins, Lenroot, McKellar, McNary, Norbeck, Norris, Sheppard, Walsh and Wheeler.<sup>68</sup>

The Resolution as passed provided for the adherence of the United States to the World Court protocol of December 16, 1920, "and the adjoined statute for the Permanent Court of International Justice . . . subject to the following reservations and understandings . . ."

1. That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the treaty of Versailles.

2. That the United States shall be permitted to participate, through representatives designated for the purpose and upon an equality with the other states, members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the council or the assembly for the election of judges or deputy judges of the Permanent Court of International Justice or for the filling of vacancies.

3. That the United States will pay a fair share of the expenses of the court as determined and appropriated from time to time by the Congress of the United States.

4. That the United States may at any time withdraw its adherence to the said protocol and that the statute for the Permanent Court of International Justice adjoined to the protocol shall not be amended without the consent of the United States.

5. That the court shall not render any advisory opinion except publicly after due notice to all states adhering to the court and to all interested states and after public hearing or opportunity for hearing given to any state concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.<sup>69</sup>

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<sup>68</sup>Ibid. Not voting was Dill.

<sup>69</sup>U. S. Department of State, Papers Relating to the Foreign Relations of the United States, 1926, Vol. I (Washington, D. C.: Government Printing Office, 1941), pp. 1-2.





The Resolution further provided that the United States would not sign the protocol "until the powers signatory to such protocol shall have indicated, through an exchange of notes, their acceptance of the foregoing reservations and understandings as a part and a condition of adherence by the United States to the said protocol."<sup>70</sup>

In addition, the Resolution stipulated that "recourse to the Permanent Court of International Justice for the settlement of differences between the United States and any other state or states can be had only by agreement thereto through general or special treaties concluded between the parties in dispute. . . ."<sup>71</sup>

Finally, the time-honored reservation of the Hague Conferences was included:

. . . adherence to the said protocol and statute hereby approved shall not be so construed as to require the United States to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political question of policy or internal administration of any foreign state; nor shall adherence to the said protocol and statute be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.<sup>72</sup>

The type of participation proposed by the Resolution reflected the influence of the "traditionalist" progressives in the Senate. Although the "isolationist traditionalists" at this point may be said

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<sup>70</sup>Ibid.

<sup>71</sup>Ibid.

<sup>72</sup>Ibid.



technically to have lost the fight, in the long run they would triumph because the reservations agreed to were so restrictive that the member nations of the World Court would be unable to readily accept them. The "international traditionalists" led the Senate campaign toward limited international cooperation, but had moved toward the "isolationist traditionalist" position in acquiescing in the modification of the fifth reservation. The majority of Senate membership, holding weakly defined views on foreign affairs and concerned primarily with domestic matters, followed in this path.

Both strains of progressives had concerns basically alike. Neither was willing to become politically involved in Europe nor to realistically consider the position of the United States as a world power with interests in actively aiding the resolution of conflicts among nations. George Norris' "yes" on the final vote is symbolic of their underlying similarity. Although Norris had heretofore lined up almost without exception with the "isolationist traditionalist" progressives, he voted with the "international traditionalists" in the end.

On December 29, 1925, the New York Times had announced that George Norris had just confirmed his rumored "apostasy" on the World Court and was planning to vote for the World Court proposal with "proper reservations." The Times correspondent saw in this and other developments a crumbling of the Irreconcilable position and a turning away by the country from isolationism. But he completely missed the point of Norris' words when speaking of joining the Court, the Senator said





I do not believe it can do us harm if we say we will not be bound to use force to enforce its decisions, if it does not entangle us in any way, and if we agree to take our cases before it when we, under our right, are willing to do so. . . . If the reservations now proposed to do these things . . . are adopted . . . I shall not hesitate to vote for the Court. If they are not adopted I cannot of course support the resolution.<sup>73</sup>

Given the nature of the five reservations that were adopted, it made little difference which way Norris voted; for the influence of the two elements of progressivism had already doomed the chances of United States participation in the World Court.

#### IV

On February 12, 1926, Secretary of State Kellogg sent a copy of the Resolution to each of the forty-eight powers who were signators to the Protocol.<sup>74</sup> The Senate had demanded that each of these nations reply individually before the United States would agree to sign the Protocol. No conference for discussion of the conditions was envisioned under these conditions. It was as though the United States Government expected each one of these countries to send a message to Washington saying, as Professor Denna Fleming has put it, "We accept you into the Court under all the reservations laid down by the Senate, without any reservations whatsoever on our part."<sup>75</sup>

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<sup>73</sup>New York Times, December 29, 1925, p. 2.

<sup>74</sup>Papers Relating to the Foreign Relations of the United States, 1926, pp. 3-4.

<sup>75</sup>Fleming, The Treaty Veto of the American Senate, p. 216.



However, the main response from the other powers came in quite a different manner. At a meeting of the League of Nations Council held on March 18, 1926, the representatives of the member nations decided to invite the governments of the countries which were signatories to the Protocol as well as the United States to send delegations to a conference to be held in Geneva on September 1 in order to discuss any questions arising from the United States reservations and to frame "any new agreement" that might be needed as a consequence of these conditions.<sup>76</sup>

It happened that the invitation from the Council arrived in the United States at about the same time as did copies of a circular from the Council to signatories asking them to oppose the procedure of exchanging notes as advocated by the Senate rather than handling United States adherence as a multilateral action. This, as George H. Haynes has written, "chilled whatever disposition might have been felt by the President or the Senate toward the acceptance of the invitation. . . ."<sup>77</sup>

In transmitting a copy of the invitation to the President, Secretary of State Kellogg advised, "I do not think we should accept this invitation."<sup>78</sup> In his reply to the Secretary General of the League of Nations Kellogg said in part:

While acknowledging the courtesy of the invitation of the League of Nations to attend such a meeting, I

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<sup>76</sup>Coolidge Papers, Charge d-Affairs Winslow to Kellogg, March 31, 1926.

<sup>77</sup>George H. Haynes, The Senate of the United States: Its History and Practice, II (New York: Russell and Russell, 1960), p. 709.

<sup>78</sup>Coolidge Papers, Kellogg to Coolidge, April 1, 1926.





do not feel that any useful purpose could be served by the designation of a delegate by my Government to attend a Conference for this purpose. The Senate gave its consent to the adherence of the United States to the Statute of the Permanent Court with certain specific conditions and reservations set forth in the Resolution, which I forwarded to you as the depository of the Protocol. These reservations are plain and unequivocal and, according to their terms, they must be accepted by the exchange of notes between the United States and each one of the forty-eight states signatory to the Statute of the Permanent Court before the United States can become a party and sign the Protocol. The Resolution specifically provided this mode of procedure.<sup>79</sup>

However, by the time that the conference of signatory nations convened in Geneva on September 1, only seven small countries had accepted the terms of the United States for adherence to the World Court. These were Cuba, Greece, Liberia, Albania and Luxembourg. Later action resulted in a partial withdrawal of two of these acceptances, but Santo Domingo and Uruguay indicated that they were willing to sign. Six countries--Brazil, Bulgaria, Canada, Chile, Hungary and New Zealand--completely ignored the American communication.<sup>80</sup>

The Final Act of the Geneva Conference issued on September 23 and signed by forty signatory states held that the exchanging of a series of notes could not amend the Protocol. The Conference drafted and accepted a Preliminary Draft Protocol containing the conclusions

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<sup>79</sup>Papers Relating to the Foreign Relations of the United States, 1926, pp. 12-13.

<sup>80</sup>Fleming, The Treaty Veto of the American Senate, pp. 217-218; Haynes, The Senate of the United States: Its History and Practice, p. 710; Papers Relating to the Foreign Relations of the United States, 1926, pp. 11-17.



reached on the American reservations which when ratified by all member states would have the same force as the Court Statute.

The first three reservations were accepted unconditionally. The first part of the fourth reservation--i.e., the right of withdrawal--was accepted with the counter-reservation that the other member states by not less than a two-thirds majority could at any time "withdraw their acceptance" of this condition.<sup>81</sup>

Regarding the second part of the fourth reservation, the Conference was not sure itself how the Statute of the Court could be amended. Consequently, it was not clear if the United States was in effect asking for a special privilege in saying that the Statute could not be amended without its consent. Therefore, Article 2 of the Preliminary Draft Protocol proposed:

No amendment of the Statute annexed to the Protocol of December 16, 1920 may be made without the consent of all the contracting states.<sup>82</sup>

Concerning the first part of the fifth reservation, which required that advisory opinions be given publicly, the Conference pointed out that the Court rules provided for this and agreed to consider making them more permanent. Article 3 of the Preliminary Draft Protocol read "The Court shall render advisory opinions in public session."<sup>83</sup>

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<sup>81</sup>The Final Act of the Conference, Publications de la Societe des Nations, V, Questions Juridiques, 1926, Vol. 24, p. 6, quoted in Fleming, The Treaty Veto of the American Senate, p. 224.

<sup>82</sup>Coolidge Papers, Telegram from the American Consul (Tuck) at Geneva to Kellogg, September 3, 1926.

<sup>83</sup>Ibid.





The second part of the fifth reservation was the trouble maker. In effect it demanded, as Professor Fleming has said, "a veto on the giving of all advisory opinions." Although it agreed that the United States should have equality with nations represented in the Council and Assembly, the Conference denied that unanimity in the Council and Assembly had been established as being required in the requesting of advisory opinions. The question of whether such a request was substantive (requiring a unanimous vote) or procedural (requiring a majority vote) had never been answered.<sup>84</sup>

The wording in the reservation giving the United States the right to veto such a request on any question which the United States "has or claims" an interest was puzzling to the delegates at the Conference. They agreed that the United States should make some reservations and would not have objected to the original wording approved by Coolidge which said that the United States would not be bound by advisory opinions which "the United States has not voluntarily submitted for its judgment."<sup>85</sup>

Moreover, the Conference members did not know how the veto would be applied, whether by the United States representative at Geneva, the President or the Senate. If it were the Senate, and it were not in session, what would happen?<sup>86</sup>

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<sup>84</sup>Ibid.; Fleming, The United States and the World Court, pp. 77-78; Fleming, The Treaty Veto of the American Senate, pp. 227-229.

<sup>85</sup>Fleming, The Treaty Veto of the American Senate, p. 228.

<sup>86</sup>Ibid., p. 232.



The United States had refused to attend the Conference so its representatives could not be asked these questions. Obviously the whole matter required negotiation. Consequently, the Conference accepted the fifth reservation in principle but with the following condition:

The manner in which the consent provided for in the second part of the fifth reservation is to be given, will be the subject of an understanding to be reached by the Government of the United States with the Council of the League of Nations.

The State signatories of the Protocol of December 16th, 1920, will be informed as soon as the understanding contemplated by the preceding paragraph has been reached.

Should the United States offer objection to an advisory opinion being given by the Court, at the request of the Council or the Assembly, concerning a dispute to which the United States is not a party or concerning a question other than a dispute between States, the Court will attribute to such objection the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council.<sup>87</sup>

The President of the Conference in adjourning spoke hopefully of reconciliation. "We have built a bridge," he said, "Let us hope America will cross it."<sup>88</sup>

But the affronted United States was by no means ready to cross the bridge. Kellogg wrote Coolidge that dangers still existed in the area of advisory opinions. The League could interpret its own Statute regarding the issue, and the United States could do nothing about it.

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<sup>87</sup>Publications de la Societe des Nations, V, Questions Juridiques, 126, V. 25, p. 7, quoted in Fleming, The Treaty Veto of the American Senate, p. 233; Coolidge Papers, "The United States and the World Court, the Present Status of the Question," American Foundation, November 15, 1926.

<sup>88</sup>New York Tribune, September 24, 1926, quoted in Fleming, The Treaty Veto of the American Senate, p. 234.





Reference to the rules of the Court by the Conference members was not reassuring since the Court could change these rules at any time.<sup>89</sup>

On October 1 it was announced that the President was depressed over the report of the Conference and that he would take no action for the present. It was his opinion that any further action on the Court should originate with the Senate.<sup>90</sup> The report of the activities of the Conference sent from twenty-one capital cities to the United States Department of State was ignored.

Finally, after much speculation that the terms of the United States were final, President Coolidge confirmed this opinion six weeks after the report was issued and following the Congressional elections. It was on Armistice Day in a speech delivered in Kansas City that Coolidge publicly abandoned the Court. He said

While the nations involved cannot yet be said to have made a final determination, and from most of them no answer has been received, many have indicated that they are unwilling to concur in the conditions adopted by the resolution of the Senate. While no final determination can be made by our Government until final answers are received, the situation has been sufficiently developed so that I feel warranted in saying that I do not intend to ask the Senate to modify its position. I do not believe the Senate would take favorable action on any such proposal, and unless the requirements of the Senate resolution are met by the other interested nations I can see no prospect of this country adhering to the court.<sup>91</sup>

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<sup>89</sup>Coolidge Papers, Undated letter, Kellogg to Coolidge, 1926.

<sup>90</sup>New York Times, October 2, 1926, p. 1.

<sup>91</sup>Ibid., November 12, 1926, p. 2.



This speech seemed to end all immediate prospects of the United States' entering the World Court. After years of discussion, debate, questioning and delay, the country had finally agreed to enter the Court but only under severely circumscribed conditions. The other powers had seriously questioned only one point in the Resolution and had offered to discuss this point. But the United States was unwilling to enter on any but its own terms.

As Senator Lodge had won in his battle against the League, so had Senator Borah and his colleagues triumphed in their fight against the Court. Not only Borah and the other Irreconcilables--both the "isolationist-traditionalist" progressives and the isolationist, conservative Republicans--but also the "international traditionalist" progressives could take much of the credit for the failure of the United States to enter the World Court.





## CHAPTER V

### CONCLUSION

This study has attempted to make three main points. First, when progressivism as it was known from 1900-1917 disintegrated, the "modernist" group largely abandoned the movement leaving to carry on the progressive banner as best it could the old Populist "traditionalists." Secondly, a split centering about the question of internationalism occurred in the "traditionalist" group around the time that the United States entered World War I. The score of progressives in the Senate in the period 1920-1926 were about evenly divided between these "internationalist" and "isolationist" positions. The "internationalist" group favored only a limited kind of internationalism--one that was legalistic, non-committal and carefully circumscribed with reservations and conditions that would safeguard American interests. The "isolationist" progressives spurned any kind of political involvement in Europe. The third point made here is that although the Senators representing these two progressive camps were usually on opposite sides on the World Court issue, both groups played a significant role in the failure of the United States to enter the World Court during this period.

Focusing a study of the efforts of the United States to enter the World Court in the early twenties on just one facet of the issue--in this case, the role of the progressives in the Senate--is difficult; for no group operates in a vacuum. Many other aspects of the situation have an important bearing on the struggle, but in the interests of



space and relevance to the topic they must be slighted. For example, the role of the conservative, nationalistic Republicans was also significant in the failure of the United States to enter the World Court, and economic conditions, which were only briefly mentioned here, played an important part in determining the attitude of Americans toward world cooperation. But in spite of these difficulties, conclusions regarding the role of the progressives in the World Court struggle can be drawn, some of which are quite clear-cut while others are more tenuous.

Two groups were evident in the progressive movement from its beginning around 1900 when it incorporated much of Populism, which had preceded it. The "modernist," urban-oriented progressives, led by Theodore Roosevelt, embraced a forward-looking ideology emphasizing centralization and efficiency in government, a strong executive and governmental regulation of big business in domestic affairs and the use of American power to maintain an orderly international environment. Having become disillusioned with Woodrow Wilson's attempt to carry reform to the world, this group largely abandoned progressivism between 1917 and 1920. Thus, the "traditionalist," agrarian-oriented progressives with their basically backward-looking ideology were left to fill the void. In domestic affairs those remaining had inherited the Populist-progressive philosophy that proposed waging war on monopoly by breaking up trusts and returning to a more simple economy and included a fear of bureaucrats, immigrants and the city. Theirs was a simple and personalized approach to both domestic and foreign problems. It





held that moral and legalistic measures should be employed to keep world peace. Idealistic in nature, it took no note of the needs of the United States as a world power with far-flung interests.

The voting record of the progressives who were left in the Senate in 1920 on issues pertaining to United States involvement in World War I and in the League of Nations points up the second division that took place in progressivism. About half of the progressive Senators supported a more internationalist position. They favored entering the war on the side of the Allies not on the basis of a realistic appraisal of the threat to United States security, but for idealistic and simplistic reasons grounded on moral and legal evangelism. Most of these "international traditionalists" would agree to international cooperation following the war but only with reservations and conditions that would protect American sovereignty from foreign influence in every possible way.

A few in this group were Democrats, and they followed Wilson, their party leader. On the League of Nations issue they did not insist upon reservations as did the other "international traditionalists," but like Wilson they were not "realists" in their appraisal of American interests or of the importance of power in world politics. Only two of these four Wilsonites remained solidly in the President's camp. Walsh and Owen compromised finally and voted on the League with the other "international traditionalist" progressives.

The other group--the "isolationist traditionalists" like LaFollette and Johnson--believed that any political entanglement in Europe would be suicidal. They denounced both the war resolution and



the League of Nations as being part of an "international gold conspiracy."

Thus, progressives in the twenties were anachronisms because they were looking backward in a modern world. Their ideas could not meet the needs of a complex age either at home or in the international sphere. Although they were still reformers to a certain extent in domestic affairs, progressives narrowed their field of reform drastically. With their focus almost entirely on the plight of the farmer, they were not ready to join with other reform elements to gain an effective voice in the nation's affairs as both the 1920 and 1924 elections demonstrated. It is true that progressives were successful in gaining a number of Senate seats in 1922, but the winners came mainly from Midwestern states and their success was due mainly to concentration on the troubles of the farmer. In 1924 most progressive leaders in the Senate remained within their regular parties, while LaFollette as standard bearer of the Progressive Party reiterated the old slogans regarding the evils of monopoly and the gold conspiracy and made very little impact on the nation as a whole.

As for international affairs, the progressives' either isolationist or idealistic-legalistic attitude, already apparent in the split of the "traditionalists" into two camps, made it possible to predict as early as 1920 that progressives would not favor any kind of meaningful world cooperation. Their stance was important for the World Court issue because, despite their diminished number, there were still enough progressives to wield considerable influence in the Senate where the issue would be decided.





Progressives in the Senate from 1920-1926 were mainly Midwesterners who represented a tradition of agrarian discontent--Grangerism, Populism and the Non-Partisan League were a part of their backgrounds. The image of the farmer and the small businessman about to go under as a result of the evil activities of the "plutocrats" on Wall Street and of the country as a whole being threatened by an international gold plot did not die easily. Having been successful in uniting the Populists in the 1890's, it had become almost a permanent feature in this group's outlook and approach to all problems. It is exemplified in Senator Nye's speech in this vein on the World Court made only eleven days after he had been appointed to the Senate in order to woo the Non-Partisan League support in his home state of North Dakota.

The World Court issue found these nineteen or twenty progressive Senators lined up in nearly the same way that progressives had been on the League question. About half rejected the World Court proposal entirely, while the other half supported it with the detailed reservations and conditions designed to protect the United States against the League and against any possible foreign domination.

The complete isolationists like LaFollette and Johnson who thought all foreign entanglement a threat to America, and especially to the "little man" threatened by the "moneyed interests," voted "no" on every question that might bring the United States closer to World Court membership, while "internationalist traditionalists," who were inheritors of the Wilsonian idealistic, legalistic approach to world cooperation, supported entry into the World Court when reservations provided a sufficient buffer between the United States and the world.



But the "traditonalist" progressives do not all fall neatly into these two groups, convenient as that would be for the author. Only a disregard for facts will cover up the contradictions and variations in the attitudes of some of these Senators. Senator Borah, for example, illustrates the ambiguity in the "traditionalist" philosophy. He had helped bring about the Washington Disarmament Conference, had favored the outlawry of war idea and during the World Court debate insisted that he wanted a court but one "backed with moral not military force." Borah lined up with the "isolationist traditonalists" mainly because he feared the Court's connection with the League. This relationship would bring political involvement in Europe which in turn might require the use of force in settling disputes between nations. Walsh assessed Borah's attitude correctly when he charged that what the opponents of the Court proposal feared most was "an increase in the prestige of the League of Nations."

Walsh is another progressive who is difficult to categorize. He, along with two or three other Democratic progressives, was not greatly concerned with reservations to protect United States interests. However as a lawyer, Walsh believed in legalistic methods of keeping world peace. And like the other "international traditionalists," Walsh was an inheritor of the Wilsonian idealistic attitude toward foreign affairs. He tended to place more trust in other nations than most of his colleagues and, like Wilson, was more willing to put his faith in the ability of all men to end war by reason and righteousness. Consequently, Walsh voted for every measure that would bring about United





States membership in the World Court even if it meant appeasing the "isolationist traditionalists."

Although Borah, on the side of the "isolationist traditionalists," led the forces against the World Court proposal, and Lenroot, the "international traditionalist," headed the majority party's effort to gain adherence, both sides at times worked together and both contributed significantly to the final failure of the United States to enter the Court.

Delay was an important part of the strategy employed by Borah and his allies to secure this result. Through personal prestige and their position on the Foreign Relations Committee, they managed to postpone action on the Court plan for nearly three years when public opinion was obviously favorable. In the meantime, opponents had the opportunity to prepare and present to the public and the Senate every conceivable danger that membership might bring. When the Resolution was finally considered on the floor of the Senate, "isolationist traditionalists" cooperated, as they had all through the struggle, with regular nationalistic Republicans. Together they engaged in a filibuster maneuver to delay voting and in offering a variety of additional reservations. Borah and his group cooperated with the "internationalist" progressives to get detailed reservations adopted in case the proposal to enter the Court should pass the Senate. Only on Reservation No. 2--the one which would necessitate the participation by the United States with the League of Nations in the selection of judges--did Borah, Frazier, LaFollette and Shipstead draw the line and vote "no."



Thus, the influence on the World Court struggle of this group of seven to eight "isolationist traditionalist" progressives was considerable. With the help of conservative regular Republicans, they had first of all influenced Hughes in attaching the reservations to his original proposal, then succeeded in delaying action on the plan in spite of consistent support for World Court membership in the party platforms and in the face of seemingly favorable public opinion. Finally, through their continued obstructionism and opposition, they successfully opposed the Senate as a whole as well as the President, who was on record as favoring the Swanson Resolution, in forcing the acceptance of the fateful version of the fifth reservation.

The influence of the "internationalist" progressives was also significant. It was largely their voice which, in the aftermath of the League debate, had kept the issue before the public and attracted support in the Senate. This group's position in the vote to close debate and bring the Swanson Resolution to a vote was apparently decisive, and its help in altering the fifth reservation contributed to the failure of the United States to enter the Court. For this reservation proved to be the stumbling block. Its imprecise wording which seemed to demand the right of the United States to veto the giving of any advisory opinion, coupled with the Senate's "take it or leave it" offer to the other adhering states, in the end made United States entry impossible. It was Lenroot, the "internationalist traditionalist" leader, who helped persuade Kellogg that the United States should send individual notes to the signatory countries instead of using the League of Nations





as a means of contact,"<sup>1</sup> thereby causing another obstacle to the member nations' acceptance of the American terms.

Although normally at odds with the Administration in domestic affairs, progressives of both groups had allies in the Executive branch of government during this period with respect to their aims regarding the World Court. Harding and Hughes had serious doubts about getting politically entangled in Europe, and their successors were of a similar mind. Both Presidents Harding and Coolidge were weak executives who allowed the Senate to take the initiative in foreign affairs. Harding was easily influenced by the "isolationist traditionalist" progressives. He demonstrated this in the 1920 election in his equivocal stand on the League of Nations which was intended to keep this element's support, in his hesitancy to take any steps toward encouraging membership in the World Court and in his final speech in St. Louis in the summer of 1923 when, admitting that the Court and the League were connected, he said the United States should not enter the Court unless that relationship were definitely severed.

Coolidge supported the Court proposal in his annual messages to Congress, but he took the position that the matter was in the hands of the Senate and he relied on maverick leadership to guide the measure past the pitfalls that threatened it there. After passage of the Swanson Resolution, he allowed the Senate to dictate to the State

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<sup>1</sup>Ethan L. Ellis, Frank B. Kellogg and American Foreign Relations, 1925-1926 (New Brunswick, N. J.: Rutgers University Press, 1961), p. 227.



Department the procedure in notifying the signatory nations. Moreover, after the member states had requested a conference of signatories and the United States, Coolidge did nothing for six weeks. He believed that action should come from the Senate.

As to the men whom these Presidents chose to be their Secretaries of State, Hughes did show some leadership in presenting the World Court proposal, but he included reservations partly in deference to the Irreconcilables in the Senate. Kellogg assumed little responsibility in regard to the World Court. He even agreed to the Senate's taking part in wording the notes to the signatory nations.

The lack of leadership in the Executive and the nature of the progressives' objectives precluded United States entry into the Court. But both factors were affected by the character of public opinion. While generally favoring such an idealistic project, intensity of popular attitude was reserved for the economic upswing and the means of enjoying its benefits. As the elections of 1920 and 1924 showed, the majority of the American people were satisfied with limited international contact and absorbed with domestic concerns. The whole "modernist" progressive approach of Theodore Roosevelt to foreign policy was unpopular in the twenties and the remaining progressives had almost completely abandoned it. When the break-up of progressivism occurred, beginning with the debate over the entry of the United States into World War I and climaxed by the failure of the United States to join the League of Nations, the outcome of the World Court struggle might have been predicted by a perceptive observer. It would take another





great war and a new kind of liberal to bring an awareness of the meaningful role the United States could play in a troubled world.



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